
Introduction

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As we send this second edition of the *Handbook on Prisons* to print, it is inevitable that we reflect on the state of imprisonment in the nine years since the first edition came out. It is tempting to see the last decade as another chapter of unmitigated failure in the history of punishment. Between the end of 2006 and the end of 2013 the global prison population increased from 9.25 million to 10.2 million (Walmsley 2007, 2013). As the World Prison Population List (www.apcca.org/uploads/10th_Edition_2013.pdf) shows, prisoner numbers are growing in all five continents and most of the countries represented in this volume imprison more people today than they did when the *Handbook* first came out. There are, of course, exceptions, and the picture of incarceration is not entirely bleak. Even the league table leader, the USA, has seen a small drop in its prison population – from 738 to 716 per 100,000 of the general population – and, while this might barely seem noteworthy given the size and scale of the total numbers of people that America locks up, some of the most significant decreases have been in conservative states such as Texas and Arkansas. Optimists might highlight the fact that such decreases have been occurring year-on-year since 2010 and that, although initially driven by necessity in an economic recession, the decline has subsequently been attributed to a softening of public punitiveness and a redirection of public spending priorities from crime to health and education. One scholar, Natasha Frost, has gone so far as to say ‘This is the beginning of the end of mass incarceration’ (quoted in *The New York Times*, 23 July 2013).

Of course, any criminology student will immediately want to look behind these figures and examine who is more, or less, likely to be sentenced to custody, what kinds of offences no longer carry a prison sentence that previously did, and what kinds of prison conditions are experienced by those left in the system. Like its predecessor, this second edition of the *Handbook* aims to look behind the statistics and try to convey some of the realities of imprisonment as they are shaped by those in power and experienced by those with relatively little power. Indeed, this second edition is even more wide ranging and ambitious than the first edition, with an additional ten chapters, including a new section on international perspectives, to reflect the growth of high-quality scholarship on prisons across the world and to encourage thinking about imprisonment in a global context. Contributors to the *Handbook* have also gone beyond thinking about the prison as a bounded institution (that is, bounded by time, space or place) and considered, in myriad ways, how the present and the past intertwine, the importance of viewing any country’s incarcerated population heterogeneously, the extent to which the ‘effects’ of prison are felt far beyond its physical walls, and how ‘imprisonment’ has spread into other areas of state practice.

Once again we have gathered together many of the leading scholars in penology and asked them to reflect on the main issues and debates surrounding prisons and prisoners while providing new ways of thinking about familiar penal problems and enhancing our theoretical understanding of imprisonment. However, this second edition should not be regarded as a straightforward 'replacement' of the first edition and, in many ways, they can be read alongside each other. Of course, some aspects of the penal landscape have changed since 2007, yet much of the content of the first *Handbook on Prisons* remains pertinent and it contains chapters on topics that, for various reasons, could not be included in this second edition. However, like its forerunner, this second volume reveals the range and depth of current knowledge about prisons, combining contributions from many of those who have established and developed prison research over the last half-century and who continue to shape it in its current phase, with more recent entrants to prison studies who are building on this tradition and breaking new ground. The volume also contains contributions from prison governors, ex-governors, non-academic specialists, and from a chief inspector of prisons in England and Wales.

The *Handbook* is divided into five parts, each of which is distinctive in its focus, yet interrelated in many of the themes and issues raised. The first part considers the prison in its comparative and historical context. It looks at the birth of the modern prison and considers changing aims and rationales for imprisonment over the last three centuries. The chapters individually and collectively address many important questions concerning the purpose, aims and understandings of imprisonment. How important are historical contexts and continuities for our understanding of the current penal landscape? How have philosophies of punishment changed and what can they tell us about what prisons are for? How should philosophical aims be reconciled with performance measures and targets? What drives prison expansionism? Why do some countries have very high prison populations while others maintain low rates of incarceration? Why do imprisonment rates not always correlate with crime rates? To what extent does the architecture and design of prisons indicate what goes on within their walls? What impact does space and place have on the lives of a prison's occupants? How are prisons managed?

The second part of the *Handbook* reflects on some of the controversies that have dominated penal discussions over many years. By their very nature controversial, prisons are suffused with contentious policies and practices and this section of the *Handbook* looks at some of them. How can prisons achieve a balance between custody and care, decency and austerity? What has been the impact of the introduction of private sector punishment provision? On what grounds, and with what effects, is solitary confinement imposed upon prisoners? What is the mental health profile of the prison population? What role do drugs play in the lives of prisoners? What are the causes of and solutions to prisoner suicide and self-harm? How are sex offenders imprisoned and treated, with what results? Who are prison officers, what do they do, and what constitutes 'good' prison officer work? What is the role and use of technology in prisons?

Part III discusses international perspectives on imprisonment, exploring the role of the states and the political contexts within which imprisonment is located. The task of this section includes describing the practices of imprisonment in different states. What is the rate of imprisonment in different countries? What are the characteristic practices and cultures of those institutions? How does the use of imprisonment reflect the relationship between political economy, the state and the prison in different jurisdictions? Collectively, the

chapters invite comparative and critical reflections. What practices are replicated and repeated across states? In what ways do countries vary in their practices, and why? Are certain practices to be considered more equitable or effective than others? What can be learned or transferred through international dialogue? As a whole, the chapters also raise broader questions about criminal justice in an age of globalization. Each jurisdiction has its own unique story to tell about the interplay between global trends and historically rooted local cultures. These stories reveal issues not only about the technicalities and everyday practices of imprisonment, but also about global and national power structures that criminal justice systems reflect and sustain.

The fourth part of the volume looks at some of the prisoners who make up the prison population and discusses some of the issues affecting them as they enter, experience and leave custody. How do prisons differ? What is imprisonment like, and what determines the prisoner experience? What are the characteristics of late modern penalty? Why have the concepts of risk and dangerousness become synonymous with prison populations? Why has the issue of 'public protection' overtaken debates about prisoner welfare? What is a 'therapeutic' prison? Why are there now so many older prisoners and what are the particular demands on the prison service in accommodating these prisoners? Might there be alternative forms of punishment that could be implemented which would be less damaging to vulnerable groups and more effective in reducing offending?

The fifth and final part of the *Handbook on Prisons* is entitled 'Beyond the prison', and it brings together contributions that have an external dimension. What is done to ease the transition from prison to community? What is the relationship between prisons and desistance from crime? Why do many prisoners' families feel they have been condemned to serve a 'second sentence'? Who scrutinizes what goes on inside prisons? Why is independent inspection important? What does academic research add to our knowledge and what are the issues that first-time prison researchers need to think about before they enter the field? How have prisons been represented in art and literature and how do these representations inform public debate about punishment? Why has penalty spread to other kinds of institutions? Do we need prisons at all?

It is these questions and topics that shape the parameters within which the authors who have contributed to the *Handbook on Prisons* offer their expertise. First, though, Andrew Coyle offers his reflections on how prisons have changed over the course of his professional life. As Emeritus Professor and Director of the International Centre for Prison Studies at King's College London, an ex-prison governor, and a visitor to many countries' prisons, Coyle's memories and observations provide a fascinating, personal insight into some of the issues that will be discussed in greater detail in later chapters. Entering prison for the first time as an assistant governor in 1973, he remembers the sights and smells that greeted him, recalls the structure of the prison day, and reminds us of the casual brutality that marked the system in the 1970s before independent inspection and monitoring was introduced to hold prison staff and managers to account. Underlying Coyle's chapter are the questions, 'what can we learn from the past?' and 'what can we learn from each other?' Viewing 21st-century prison systems in historical and global perspectives, he suggests, not only encourages reflection on the continuities that speak to the permanence of the prison but also raises questions about the social values that underpin our treatment of offenders. As such, Chapter 1 of the *Handbook on Prisons* is a thought-provoking and timely prologue to the chapters that follow.

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Part I

Prisons in context

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Prisons in context

Andrew Coyle

Introduction

This chapter provides a personal overview of some features of imprisonment over the last 40 years. In the early 1970s the world was quite different in many relevant respects. The colonial empires of European countries were being dismantled to be replaced by newly independent countries, and the Cold War was a major part of our political lives. Prisons and labour colonies throughout the Soviet Union and neighbouring countries held well over 1 million men and women in virtual slavery, and the very existence of many of these places of detention was a state secret. In the United Kingdom the world of prisons was also largely hidden from public view and a number of prisons were places of brutality and inhumanity. Within a few years the first cracks began to appear in that closed world. In 1975 the European Court of Human Rights reached its first decision in a case concerning a prisoner in the United Kingdom (*Golder v United Kingdom* [1975] 1 EHRR 524). In this case the Court concluded that the refusal of the UK authorities to allow a prisoner access to a solicitor constituted a violation of European Convention on Human Rights Article 6 (right to a fair and public hearing within a reasonable time by an independent and impartial tribunal) and Article 8 (right to respect for private and family life, home and correspondence). The Council of Europe Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) began its work in 1990 when it visited Denmark, Turkey, the United Kingdom, Malta and Austria. In respect of the United Kingdom the CPT reached a damning conclusion about conditions in Brixton, Leeds and Wandsworth Prisons:

The CPT's delegation found that the conditions of detention in the three male local prisons visited were very poor. In each of the three prisons there was a pernicious combination of overcrowding, inadequate regime activities, lack of integral sanitation and poor hygiene. In short, the overall environment in which the prisoners had to lead their lives amounted, in the CPT's opinion, to inhuman and degrading treatment.

(Council of Europe 1991)

This report was published shortly after I became governor of Brixton Prison. The Optional Protocol to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment entered into force in 2006 and led to the establishment of an international inspection system for places of detention in

countries that have ratified the Protocol. All of these developments are discussed in greater detail elsewhere in this volume.

There are now over 10.2 million men, women and children in prison in the world (Walmsley 2013) – a number which would have been beyond belief 40 years ago – and in many countries the conditions and environment within prisons have changed dramatically. The overview in this chapter is intended to provide a context for the succeeding contributions which deal with specific issues relating to imprisonment. It invites the reader to consider the nature of imprisonment in the first two decades of the 21st century and whether the prison as now constituted is fit for its purpose.

As it was then

I entered the world of prisons in 1973 when I was appointed as one of the first assistant governors in Edinburgh Prison (Coyle 1994). Until that point the management structure in prisons in Scotland, as in the rest of the United Kingdom, had been very simple, with a single governor, assisted in larger prisons by a deputy governor. The vast majority of staff were ‘discipline officers’ of various grades, led by a chief officer. Other groups of uniformed officers with varying or no specialized training were responsible for the prison ‘hospital’, the industrial and working units, maintenance, catering and administration.

The prisoners’ day was structured and predictable. It began with cell doors being unlocked around 7.00am, leading to the infamous ‘slopping out’ parade with a procession of prisoners rushing to the ‘arches’ or ‘recesses’, each carrying a brimming chamber pot which was emptied into or around the toilets and slop basins. Each prisoner also had a bottle or jug which he filled with water from the same sink before heading back to his cell. The lucky or experienced prisoners made use of the toilets in the vicinity. The stench pervaded the whole prison and was no respecter of persons. As a new assistant governor and one of the few people who wore civilian clothes, I quickly learned that the suits which I wore to work had to be kept separate from all my other clothes at home and be cleaned regularly to minimize the prison smell that saturated them.

Prisoners were then locked in their cells for a short period while they shaved and washed the best they could with the water that they had brought back, after which they went to one of four dining rooms for breakfast. They then went directly to their work parties. Some of the work was relatively sophisticated and required a degree of skill: printing, bookbinding, carpentry. At the other end of the spectrum there was work that was basically monotonous and unskilled. In those days prisons still had contracts with what was then the Post Office to make and repair hemp mailbags. The most unpopular work was in the salvage party, stripping out redundant copper and other wiring. The prisoners allocated to this work were generally those who had no skills and little ability to learn, by and large men on the merry-go-round of short sentences for repetitive low-level offences. A small number of prisoners were employed on general maintenance in the prison, working alongside prison officer tradesmen, in the prison kitchen or on general cleaning duties. At the end of the morning the men returned to their cells for a numbers count before going on to the dining rooms for lunch, after which there was a one-hour period of exercise in the open air, although in reality there was not much exercise and most prisoners spent the time walking around the yard in small groups. It was then back to the work parties until it was time for the evening meal,

usually served around 4.00pm. Following a short period locked in cells while numbers were checked, there was evening recreation, spent in the accommodation halls, playing table games, watching the communal television or cleaning their cells. By 9.00pm all prisoners were locked in their cells until the following morning.

Prisoners on remand or unsentenced were held in an accommodation hall separate from sentenced prisoners and were not required to work. This meant that they spent most of each day locked in their cells, apart from meal and exercise times. They were also entitled to a short daily visit from family or close friends and to see lawyers or other persons in connection with their cases.

In the early 1970s there were no full-time teachers, social workers or other specialists in the prison. Criminal justice social workers (who were the Scottish equivalent of probation officers) visited to prepare reports on remand prisoners when requested to do so by the court, as did psychiatrists and psychologists, and also to report, if required, on prisoners who were being considered for early release. There was a welfare officer who was employed by the prison and who acted as a conduit between prisoners and their families when asked to do so, and who might liaise on behalf of a prisoner with authorities, for example, in respect of housing tenancies. The prison chaplain was a key figure in terms of prisoners' access to external support. If a prisoner wished for educational support he applied to the chaplain who would decide whether the man would have access to the small number of ad hoc people who came into the prison to provide this. The chaplain also coordinated volunteer visitors who befriended individual prisoners. In 1974 a qualified full-time education officer was appointed in Edinburgh Prison, the first such appointment in any Scottish prison.

The primary task of the new group of assistant governors that I joined in 1973 was to organize and oversee the writing of reports on prisoners who were to be considered for early release under the new parole arrangements which had recently been introduced following the Murder (Abolition of the Death Penalty) Act 1965 and the consequent legislation in the Criminal Justice Act 1967. In those days a prisoner serving a sentence of more than 18 months became eligible for early release after serving 12 months or one third of the sentence, whichever was longer. Most prisoners who were serving life sentences became eligible for release after they had completed about nine years in prison, and the preparation of reports and documentation had to begin some 18 months before that date. Prisoners serving indeterminate and other long sentences now serve much longer periods before being considered for early release.

One undoubtedly positive change in the last 40 years has been the increase in transparency in prisons. Prisons used to be described as the last great secretive institutions in modern society because of the shortage of information about what happened within them. Given the reach of modern communications it is no longer possible to prevent much of what happens in prisons from coming into the public domain. The publication of regular reports from HM Inspectorate of Prisons and the work of Independent Monitoring Boards (IMBs) in each prison has also brought much of what goes on inside prisons in England and Wales into the public spotlight. A changed public climate as to what is and is not acceptable behaviour on the part of public servants has resulted in significant changes in the behaviour of many staff. For example, it is hard to imagine that today there might be such a sequence of events as surrounded the death of Barry Prosser in Birmingham Prison in 1980. These were summarized in a statement by the Home Office minister of state to the House of Commons on 1 July 1982:

Mr. Prosser was found dead in his cell in the hospital wing of Birmingham prison in the early morning of 19 August 1980. The post mortem which was held that afternoon revealed the full and horrifying extent of Mr. Prosser's injuries. The pathologist's report was that Mr. Prosser had extensive bruising all over his body. His stomach, his oesophagus and one of his lungs had been ruptured, and the pathologist thought that the cause of death was a blow, probably by a heavy weight. The inquest into Mr. Prosser's death was held in April 1981. It lasted for seven days and heard the evidence of nearly 50 witnesses ... At the end of the proceedings, the jury returned a verdict that Mr. Prosser had been unlawfully killed.

The minister then moved on to deal with some of the recommendations that the coroner had made. His comment on the last of these recommendations is a reminder of how weak management of staff was in those days:

The coroner's final recommendation was that hospital officers should submit a report if they had to use force on a prisoner ... We recognise that when, in the proper execution of his duties, an officer has to use physical force, there is always the possibility that there will later be a complaint by a prisoner or an inquiry into the incident. Thus, we issued instructions last year reminding staff that, as a safeguard, each prison officer, including any hospital officer or nurse involved in such an incident, should write a brief factual report to the governor in addition to making any other record. Some concern was expressed by the Prison Officers Association about this instruction and it advised its branches not to comply with it.

(HC Deb 1982: 1130–1132)

The final sentence of the minister's statement includes a damning indictment of the mores of the time within the Prison Service. A mentally ill prisoner had been 'unlawfully killed' in a punishment cell. A coroner made what today would be considered a straightforward and entirely proper recommendation that prison staff should in future submit a report whenever force had to be used on a prisoner. The Home Office issued an instruction that this should be done. The Prison Officers Association took issue with this and instructed their members not to comply with the instruction. The minister appeared to accept this as an end to the matter. There is little doubt that the behaviour and reaction of the successors of all those involved – staff, management, trade unions and ministers – would be quite different today.

As it is now

Conditions

Physical conditions in prisons have improved significantly in a number of respects. The daily degradation of hundreds of prisoners carrying foetid chamber pots along landings to stinking slop sinks is thankfully long gone. In his seminal 1991 report following riots at Strangeways and other prisons, the then Lord Justice Woolf described this practice as an uncivilized and degrading process, which destroyed the morale of prisoners and staff (Woolf 1991: 24). Woolf had recommended that ministers should set a timetable to provide access to sanitation for all prisoners not later than February 1996. In April of that

year, Prisons Minister Ann Widdecombe travelled to Leeds Prison to witness, in the words of *The Independent* newspaper (13 April 1996), the last plastic pot being discarded as slopping out came to an end in prisons in England and Wales.

It soon became clear that the much-heralded end to slopping out was not all that it might seem. In 2004 the chief inspector of prisons found that there was still slopping out in a women's prison (Lewis 2006) and in 2010 the National Council for Independent Monitoring Boards published a report on the difficulties that some prisoners had in getting regular access to toilet facilities. The haste to abolish collective slopping out had meant that what had been implemented in many cases fell far below what would be considered decent. In his introduction to the IMB report, its president described the arrangements in the following terms:

Like many who will read this report I had assumed that following the acceptance of Lord Woolf's recommendations slopping out was a thing of the past. Only when the annual reports of IMBs became part of my staple reading diet did I realise that it had been replaced by a situation in which – as IMBs constantly report – two men will be living, eating and spending most of the day in what is in effect their shared lavatory.

(National Council for Independent Monitoring Boards 2010: 2)

This comment indirectly draws attention to another feature of prison life that has become increasingly prevalent: the fact that many prisoners now spend the bulk of each day locked in their cells with little or nothing to do. This has been the situation in England and Wales for many years as far as the 20% of prisoners who are not sentenced are concerned, but shortage of work, training or educational opportunities now means that many convicted prisoners are left in their cells each day. Independent commentators, including successive HM chief inspectors of prisons and local IMBs, have regularly raised concerns about these matters over the years. Speaking to the BBC in July 2014, Chief Inspector Nick Hardwick issued a warning in unusually stark terms:

We are seeing a lot more prisons that are not meeting acceptable standards ... There is a danger of the politicians over-analysing the figures and miss[ing] what is under their noses on the wings ... people being held in deplorable conditions who are suicidal, they don't have anything to do and they don't have anyone to talk to.

(BBC *Newsnight* 2014)

Speaking on the same programme, the chief executive officer of the National Offender Management Service (NOMS) acknowledged that there had been 'some deterioration' in standards in prisons, with additional pressures arising over the previous six months, including an increase in prisoner numbers (among them, more remand prisoners and sex offenders, who present particular challenges, than anticipated) and fewer staff than were needed. Some 23% of prisoners were sharing cells designed for one prisoner. He went on to confirm that there had been a 25% reduction in spending over 'the spending review period' and that in order to eliminate overcrowding he would require an increase in budget of £900 million which was not going to materialize.

There have been many other improvements in prisons since the early 1970s. Prisons are undoubtedly managed in a much more efficient manner now, although as the

quotations above demonstrate, that does not of itself imply an improvement in decency and humanity. Increased efficiency can sometimes lead to an excessive emphasis on how things are done rather than on what is being done, which results in an attention to detail that misses the reality, as noted by the chief inspector.

Violence

The gratuitous violence that went unremarked in some prisons in the United Kingdom 30 or so years ago would not be tolerated today. This is not the case in some other countries. Prisons in Latin America are marked by unbelievable levels of violence. I have visited prisons in Brazil where staff will only enter the areas where prisoners live if they have a heavily armed escort. In Venezuela some years ago I was accompanied on a visit to the main prison in Caracas by the deputy director of the national prison service. He reluctantly took me into an accommodation block. The gate to each unit was manned by a prisoner throughout each 24-hour cycle. His task was to ensure that no prisoner from another gang was able to enter the unit. If he was found asleep at his post he would face instant death at the hands of his own gang members. The toilet areas were the dirtiest I had ever seen, with detritus lying almost a metre deep. The deputy director told me that prisoners kept the area in this state so that guns and other weapons could be hidden there, and he pointed out wires sticking out at various points, explaining that these were attached to the weapons which could be recovered when needed. He also pointed out loose bricks in the walls and told me that weapons and cell phones were being kept there. Numbers of prisoners followed us everywhere and the director spoke quite openly about all of this in front of them.

This scenario is a far cry from anything that might be seen in the United Kingdom yet there is little room for complacency. Following an inspection of Feltham Young Offenders' Institution in March 2013, the chief inspector of prisons reported that:

Levels of violence at Feltham were too high, resulting in high levels of adjudications and use of force. Some of the incidents were serious and sometimes involved gangs attacking single prisoners. Many prisoners had felt unsafe at some time and/or victimised. The unprecedented and illegitimate use of batons at Feltham B was emblematic of this problem and the broader weakness of effective relationships between staff and prisoners.

(HM Inspectorate of Prisons 2013b: 16)

In January 2013 the chief inspector had inspected the part of Feltham that held children and young people between the ages of 15 and 17 years. He was every bit as concerned about what he discovered there:

We had serious concerns about the safety of young people held at Feltham A. Many told us they were frightened at the time of the inspection, and that they had little confidence in staff to keep them safe. Gang-related graffiti was endemic. There was an average of almost two fights or assaults every day. Some of these were very serious and involved groups of young people in very violent, pre-meditated attacks on a single individual with a risk of very serious injury resulting.

(HM Inspectorate of Prisons 2013a)

In an interview with *The Independent* newspaper he commented further: 'It was a very disturbing place. If you were a parent with a child in Feltham you would be right to be terrified. It would be very hard not to join a gang in Feltham.' Responding to the chief inspector's report, the chief executive of NOMS acknowledged the depth of the problem: 'All the gangs in London meet in Feltham. There are fewer young people in prisons but the ones who are there are troubled, difficult and challenging' (Peachey 2013).

These problems are not peculiar to Feltham; they are also to be found in adult prisons. In Oakwood Prison in the West Midlands, 'a huge and structurally impressive facility capable of holding more than 1,600 category C prisoners' which opened in April 2010, the chief inspector found that:

Too many prisoners felt unsafe and indicators of levels of violence were high, although we had no confidence in the quality of recorded data or in the structures and arrangements to reduce violence. Even the designated units meant to protect those declared vulnerable were not working effectively and too many prisoners on these units also felt unsafe. Levels of self-harm, some linked to day-to-day frustrations as well as perceived victimisation, were high but again processes to support those in crisis were not good enough.

(HM Inspectorate of Prisons 2013c)

Number of prisoners

One of the most outstanding changes over the last 40 years has been the growth in the number of people being held in prison. In 1973 the average number of people in prison in Scotland was just over 4,600, of whom 180 were women (Scottish Executive 2006). I well remember the concern that was expressed in 1986 when the figure broke through the 5,000 mark, a level of imprisonment that had never before been experienced in Scotland. There was less public discussion when it broke through the 6,000 mark in 2003. In mid-2014 there were 8,200 people in Scottish prisons, of whom 420 were women. The story in England and Wales has been a similar one. In 1973 there were 35,700 people in prison (Home Office 1984), and a few years later Home Secretary Roy Jenkins expressed great concern at the prospect that the prison population might eventually reach 45,000 (HL Deb 2009). In mid-2014 there were 85,500 people in prison in England and Wales, of whom almost 4,000 were women (Ministry of Justice 2014b).

The growth in the number of prisoners has been influenced in the main not by any increase in the number of offences and crimes, nor by increased detection rates but, as observed by a recent report from the British Academy (2014), by changes in penal policy. The British Academy report notes that courts are now much more likely than they were in the past to sentence offenders to prison, that prison sentences have been getting longer and that there has also been a steady increase in the number of prisoners serving life or indeterminate sentences. One might add to this the fact that the proportion of prisoners being granted conditional early release has reduced, as has the period of the early release.

The United Kingdom does not stand alone in this matter. I first visited federal prisons in the USA in 1984, when they held a total of 45,000 prisoners. In mid-2014 they held 216,000. Commenting on the massive rise in the number of incarcerated Americans in the late 20th century, Timothy Lynch, director of The Cato Institute's project on criminal justice, observed:

America's criminal justice system is going to make history this month as the number of incarcerated people surpasses 2 million for the first time. To appreciate why this is such an extraordinary moment, one needs to put the 2-million-prisoner factoid into context. It took more than 200 years for America to hold 1 million prisoners all at once. And yet we have managed to incarcerate the second million in only the past 10 years.

(Lynch 2000)

By any measure these are extraordinary increases in respect of an institution that involves a significant degree of human suffering as well as a massive input of public resources. There are now signs that this trend is being reversed. The prison population in the USA has shown a consistent reduction since 2010 (US Department of Justice 2013), with the greatest reduction occurring in some of the largest state prison systems. California has accounted for over half of the decrease in the entire state prison population.

During an extended period in which prison populations in the UK have risen consistently, a number of other European countries have shown quite different patterns. The Netherlands provides an example of how changes in government policies can push rates of imprisonment higher or lower. In 1992 the country had one of the lowest rates, with a prison population of 7,397. By 1995 this had increased to 11,886 and it continued to increase annually until it peaked in 2004 at 20,075, almost three times higher than it had been 12 years previously. Since then the number of prisoners has fallen year-on-year, and in 2013 it stood at 12,638 (World Prison Brief 2014c). Throughout this period, near-neighbour Denmark retained a remarkably stable and relatively small prison population, moving from 3,597 in 1992 to 4,091 in 2013 (World Prison Brief 2014a). In Germany there were 57,448 prisoners in 1992; the figure rose to 81,166 in 2004 but in 2013 it had fallen back to 62,632 (World Prison Brief 2014b) – this for a country of over 80 million inhabitants, compared with 85,582 prisoners in England and Wales with a population of just over 57 million.

There is very little evidence from any country that crime levels are affected for better or for worse by variations in levels of imprisonment. Instead, social scientists have gathered evidence which demonstrates that rates of imprisonment are influenced by socio-economic structures and levels of social trust. Where these are strong and there is a consensual rather than a confrontational approach among politicians on these matters, the use of imprisonment tends to be lower. Where the opposite is the case, the use of imprisonment is more likely to be high and increasing.¹

The prisoners

Other chapters in this volume deal in detail with issues relating to specific groups of prisoners. The underlying message from these contributions is that prisoners are not a homogeneous group, identified solely by the fact of their imprisonment. In this contextual chapter two groups are worthy of mention.

In many countries a significant proportion of those in prison are awaiting trial or other court process. In India, for example, two thirds of all prisoners fall into this category. In Scotland almost one fifth of prisoners are on some type of remand, while in England and Wales 10% of prisoners have not been convicted. Despite this fact, they are held in the care of the NOMS, where their treatment gives only limited recognition to the fact that

they are legally innocent. In many cases their treatment is even more restricted because of reduced access to a variety of facilities in the prison, including education and work.

The second group that is of particular importance in England and Wales includes all of those who are serving indeterminate sentences. Almost 15% of all prisoners are serving life imprisonment or an Extended Determinate Sentence (Ministry of Justice 2014a). The history of this latter group demonstrates the unforeseen consequences of legislation. The Criminal Justice Act of 2003 introduced imprisonment for public protection (IPP), a new sentence designed to be used for serious sexual and violent offenders. The government indicated that it expected the prison population to increase by around 900 as a result of this provision. In fact there were 6,000 such prisoners in 2012 when the government abolished IPP and replaced it with the Extended Determinate Sentence. Some 5,500 prisoners are still in prison under the IPP legislation (Prison Reform Trust 2014). Speaking to the BBC in March 2014, former Home Secretary David Blunkett, who had introduced the IPP legislation, acknowledged that '[t]he consequence of bringing that Act in has led, in some cases, to an injustice and I regret that' (Conway 2014). That injustice is still being suffered by the prisoners involved.

Learning from our past

Before attempting any prediction of what the future might hold for prisons in the UK, it is worth considering what we might learn from past experience. In my travels to the prisons of the world I am frequently struck by the consistent lack of institutional memory; many prison systems appear to be institutionally incapable of learning from past successes or failures. They will frequently fail to develop existing examples of effective practice, either because they do not register them for what they are, or they are unaware of them, or because the examples do not conform to mainstream thinking. In England and Wales an example of unwillingness to learn from success is Grendon Prison, which has consistently performed well in terms of what are considered sound operational indicators: the positive management of men who have been difficult if not unmanageable in other secure settings and rates of successful resettlement of men who are released. Yet after more than 50 years of existence, Grendon continues to be regarded as experimental and unique because it simply does not fit in with the public rhetoric about how a prison should operate.

In the same jurisdiction the treatment of young offenders provides an example of the inability to learn from the past. In the early 20th century the English Prison Commission introduced a new type of institution for young offenders which was based on the public school system. Accommodation units were described as 'houses'; the persons in charge of the units were known as 'housemasters' and often recruited from a public school background; each unit had a mature female prison officer who was known as 'matron'. Sir Alexander Paterson described the institutions in the following way:

A Borstal Institution is a training school for adolescent offenders, based on educational principles, pursuing educational methods. To be sent there is a punishment, for the training involves a very considerable loss of liberty, but to stay there is to have a chance to learn the right way of life, and to develop the good there is in each.

(Paterson 1934: 13)

The borstal system lasted for 75 years. This is not the place to embark on an assessment of its merits or demerits but the system came to an end because it had outlasted its time. Fast forward to 2014 and the Ministry of Justice announced its intention to build a 'secure college', led by a 'head teacher or principal' and housing up to 320 young men aged between 12 and 17.

The Government is introducing a new model of youth custody, the Secure College, which will improve outcomes and reduce cost. Education will be firmly at the heart of the Secure College, with other services designed around and intended to support innovative and intensive education delivery.

(Ministry of Justice 2014c: 2)

In 1934 Alexander Paterson had pleaded for an alternative name for borstals, given to the first such institution after the Kent village in which it was located. Eighty years later his plea was heard; they are to be recreated as secure colleges.

These two examples are from England and Wales, but one could identify similar examples from many other countries. It could be argued that this demonstrates a systemic failure to update a concept of imprisonment that is rooted in the 18th and 19th centuries. This concept is founded in the very buildings that go to make up the prison. Architecture is very important for communicating a sense of purpose to any institution, a subject dealt with in this volume (Chapter 7) and by Jewkes (2013). It has been said that if Charles Dickens were to return to Pentonville Prison in London today he would immediately recognize its wings and landings. The same might be said if Tolstoy were to return to Butyrka Prison in Moscow, or Victor Hugo to La Santé in Paris. In the 1960s and early 1970s in the UK there was an attempt to alter the structure of prisons by building accommodation blocks with hotel-like corridors, but in recent decades there has been a return to what is basically the older panopticon style which fits best with the surveillance model of imprisonment. In other words the mindset of what prisons should be and even what they should look like has changed little in the last 200 years.

Learning from others

I have had the privilege of visiting prison systems all over the world, usually at the invitation of national governments or of international bodies such as the United Nations (UN) or regional bodies such as the Council of Europe, the Organization of American States or the African Commission on Human and Peoples' Rights. My involvement has often coincided with periods of traumatic political upheaval or radical legislative change which have led to fundamental changes within prison systems on an unprecedented scale. A common thread that ran through events in many of these countries was that after the collapse of a totalitarian system or after a democratic change of government, one of the priorities was general reform of the justice system and specifically reform of the prison system which had frequently been the epitome of the worst excesses of the former regime. This was the case in Russia, which I first visited in 1992, at a time when the democratic future of the country was not at all clear. Despite the continuing struggle for the political soul of the country, the authorities were determined to begin the process of reform of the infamous Gulag system. I continued to visit Russian prisons regularly for over ten years, sometimes assisting the Ministry of the Interior and later the Ministry of

Justice in their reform efforts, at other times with intergovernmental bodies such as the Council of Europe and the Organization for Security and Co-operation in Europe. In 1998 and 1999 I was an expert member of the first two missions of the CPT to the Russian Federation, when we inspected infamous prisons including Butyrka in Moscow and Kresty in St Petersburg and travelled beyond the Urals to Chelyabinsk, which had been a transport hub in Soviet times for prisoners being exiled to the Siberian Gulag. In 1998 the number of prisoners in Russia was estimated at over 1 million. In mid-2014 it stood at 670,000, a significant reduction but still one of the highest rates in the world (World Prison Brief 2014d).

At the beginning of 1995 I worked with the UN Centre for Human Rights in providing advice to the new government that had replaced the Khmer Rouge in Cambodia. The prison in Siem Reap, a few kilometres from the monastery of Angkor Wat, remained much as it had been in French colonial times and the new administration had little idea as to how it should be managed. At that time there were 2,600 prisoners in the country and I still have a copy of my report in which I cautioned about the danger that the introduction of a Western model of imprisonment which took no account of local traditions might lead to a vastly inflated prison population. In mid-2014 the number of prisoners had indeed increased almost six-fold to 14,500, while the population of the country had risen by 75%.

Also in 1995, in the company of the reforming commissioner of prisons for Uganda, I was invited to visit prisons and to speak to prison staff in South Africa. Our main discussions were held in the staff training school in Kroonstad in the Orange Free State. The school was still known as the John Vorster Training Centre; his bust was in the main foyer and his photograph hung in the senior staff mess. We were met by General Sitole, the first black provincial commissioner, who had previously been a schoolmaster in Soweto. The commissioner of the Department of Corrections told us that he was determined to correct the racial imbalance at senior level and expected that within five years 70% of the senior staff would be black. Reality moved rather more quickly than the commissioner had anticipated. Within a very short period he had retired and the whole cadre of senior staff had been replaced.

All of these experiences and others have helped me to identify two key issues that require attention if prisons are to deliver their stated aims. They apply in all countries, including the UK.

Political will

The first is political will. Prisons are not as a matter of course a high priority for most governments. They do not interest the public in the way that health, education or the economy do. Imprisonment is something that happens to 'other people' and those other people are generally regarded as undeserving of sympathy. Experience in many countries demonstrates that if there is no government will for prison reform then it will be unlikely to make any headway. I recollect hearing a commissioner of prisons at a regional conference in Eastern Africa a decade ago encouraging politicians to take an interest in ensuring that there were decent and humane conditions inside prisons and quoting the example of a vice-president of one country who had refused to allow prisoners to have mattresses and later was subject to his own rule when he was sent to prison for corruption. That was a case of using whatever argument would best win the day in a particular situation. It is probably not one that could be advanced in many countries.

The Dominican Republic provides an interesting example, which I have observed at first-hand over several years, of how determined political will can lead to dramatic change in a manner appropriate to the local situation. In common with many countries in the region, the history of prisons in the Dominican Republic has been one of gross overcrowding, chronic shortage of resources for basic human needs, and lack of proper budgetary arrangements. There was no proper prison administration, with half of the prisons being under military control and the remainder in the charge of the police. In 2003 a new attorney-general who had the president's political support decided to take action. Having taken advice, he decided that rather than continue nugatory attempts to reform the existing prison system he should set about creating a new one to replace it. The key to any decent prison system is the quality of the staff, particularly those who interact directly with prisoners, and the attorney-general decided to base the reforms on that premise. His first and most crucial action was to find the right person to develop and lead the New Model, as it came to be called. Roberto Santana, a nationally distinguished educator and former rector of the University of Santo Domingo, took up the challenge. Santana, who had in the past been a prisoner under the dictatorship, appointed a former director of the capital's largest prison as his deputy. One of his first moves was to establish a National Penitentiary School. He recruited several of his previous colleagues in the world of education, administration and professional development as tutors in the school, alongside some carefully chosen men and women with previous experience of working in prisons. He then set about selecting a completely new cadre of students to be trained for work in prisons, all of whom were young and highly motivated. One requirement was that they should have no previous experience in either the police or the military. They were trained for a full academic year and on graduation in 2004 they went as a group to staff the first of the New Model prisons. The same practice has continued over the past decade, with new prisons being opened as each new cohort of staff matriculated. Roberto Santana has brought all his skills as an educator to bear in the New Model system which provides decent living conditions for prisoners and humane treatment by staff. Education has a high priority and the target is that by the time they are released, all prisoners will be literate. Official sources claim that only 5% of persons from the new prisons have been convicted of further crimes within three years of release. Because of shortage of resources the government has continued to develop the new system on a gradual basis, and in 2014 over half of the country's prisons were part of the New Model.

The 'Nuevo Modelo' has attracted regional and international attention. The director of the United National Latin American Institute commented: 'What's remarkable about the Dominican Republic's example is that it has taken place in a country that has the same socio-economic conditions as other Latin American countries. Before when I would go to a government and say, "Look at what they're doing in Switzerland" they'd say, "That's a different world". But now I can say, "Look at the Dominican Republic"' (Fieser 2014).

Not all problems have been solved. In the ten years since the New Model was launched the number of prisoners in the country has risen from 13,500 to 25,500, largely as a result of harsher sentencing practices. This confirms the fact that it is very difficult to effect reform of a prison system in isolation from wider developments in criminal justice. Despite this, the message from the Dominican Republic is clear. A determined senior government minister rose above the political pressures of the day and adopted a radical

strategy for change. He identified a person who was capable of achieving the desired change, agreed with him a plan of action and then gave him operational authority to deliver that change with full political support and no operational interference. Successive governments of different political persuasions have maintained that position and the benefits of this are now becoming clear. There are examples of similar positive reforms stemming from a political consensus in a number of other countries. Finland is an obvious example within Europe as it determined to move away from the historical influence of the former Soviet Union to align itself with its Scandinavian neighbours in respect of the restricted contribution that prisons have to play in contributing to their countries' safety and security.

Leadership

The second key issue is leadership. I saw the importance of this in Poland, which I visited several times in the 1990s. After the collapse of communism in 1989 the new democratic government invited Pavel Moczydlowski, professor of sociology in Warsaw University, to lead the Polish prison administration. For several years thereafter Moczydlowski led a radical reform of the former system (Moczydlowski and Rzeplinski 1990; Moczydlowski 1992). His leadership had a number of essential elements. In the first case he and his senior staff had a clear vision of what they wanted to achieve, which was to introduce a culture in which prisoners were treated decently and humanely by staff and in which they were to be given the opportunity to maintain and develop links with family and friends. The new leadership was confident that they could implement this without placing public security in danger and without sacrificing good order in prisons. They replaced the bureaucratic centralized structure with a lean regional structure. In the early years they spent a great deal of time visiting prisons and explaining their vision to both staff and prisoners. Moczydlowski told me that by his estimation, one in five members of staff never quite shook off the old mentality. He adopted a pragmatic and sympathetic response to them by making clear that dissent was not an option while making great efforts to support them through the transition process. For the small number who found this impossible he arranged early retirement. He also spent considerable time ensuring that the prisoners were aware that along with the new rights to which they were entitled came a responsibility to behave positively.

Throughout this period of change the senior prison administrators made sure that they retained the confidence of their new government ministers. They asked for and received operational autonomy but regularly explained to the politicians what they were attempting to achieve and how they could contribute to public stability. Finally, they explained the changes to the media and to local community groups and were given their support. As the changes took hold, the prison system then became more open to the press and to the public. Non-governmental organizations, church and other groups began to come into the prisons regularly.

For a few years during the last decade of the 20th century the Polish prison system shone as a beacon. As a model of how a decent and humane prison system might operate it was an example not only to other countries in Central and Eastern Europe, but also for those in the West. As both the prison system and the country were drawn into the orbit of Western Europe and its regional structures, the new vision for prisons became submerged in the complicated target-driven cultures so favoured in the West and models of

centralized management all but obliterated the regional partnerships that had been introduced in the early 1990s (Coyle 2002).

An important function of leadership in the prison environment is to set the requisite ethical standards and to ensure that they are observed by all staff. Without a strong ethical context the circumstances in which one group of people has considerable power over another can easily degenerate into an abuse of that power. The world was shocked a few years ago when it saw the photographs of abuse of prisoners by American soldiers in Abu Ghraib prison in Iraq. What was particularly disturbing was that several of those involved were part-time soldiers and had been employed in civilian life as prison officers in the USA. They knew that what they were doing was wrong but they had lost their moral compass and had ceased to see the prisoners for whom they were responsible as human beings. The story of what went wrong in Abu Ghraib in 2003 is recounted from the perspective of some of the staff involved in Morris and Gourevitch (2009). The title of their book is a reference to the standard operating procedures (SOP) that are part and parcel of the daily life of prison staff in the USA – procedures that specify every detail of what staff must do in every conceivable situation. Prison staff in Abu Ghraib did not have any such procedures, a fact which was not lost on at least one of them:

An orthodox SOP leaves nothing to the imagination, and as Ambuhl settled into her job, it occurred to her that the absence of a code was the code at Abu Ghraib. ‘They couldn’t say that we broke the rules because there were no rules’, she said. ‘Our mission was to help Military Intelligence, and nobody ever said, “This is your SOP”. But that was in a sense what it became, because our job was to stress out the detainees, and help facilitate information to the interrogators, and save the lives of other soldiers out there.’

(Morris and Gourevitch 2009: 92)

One lesson to be drawn from the terrible pictures from Abu Ghraib is that those who work in prisons or are responsible for prisons must repeatedly ask themselves the question, ‘Is what we are doing the right thing to do?’ This ethos must pervade the whole management process from the top down. It must also go beyond the prison administration to politicians and government officials who have ultimate responsibility for prison systems.

In the early 1970s junior assistant governors in the UK would from time to time ruminate on the profession that they had entered and the demands it made of them. One way of formulating the discussion was to consider at what point one might have to decide that what one was being asked to do was personally unacceptable. In those days, relatively soon after the abolition of the death penalty, there was a consensus that if ever hanging were to be reintroduced, the requirement on a governor to supervise an execution would be the Rubicon that could not be crossed and which would lead to resignation. One wonders what might trigger the Rubicon moment of today.

Conclusion

So 40 years after I first entered prison, what am I to conclude? I have always recognized that for the foreseeable future there will be no alternative other than imprisonment for some offenders. When I was governor of Peterhead Prison in the late 1980s, the prison

held a cohort of young men who had all been involved in serious criminal acts both in their communities and while serving their sentences. There was no doubt that prison was the proper location for them at that point. My task and that of all staff was to hold them in custody as decently and humanely as possible – a task which was relatively simple in theory but extremely complex in practice. Throughout the early and mid-1990s I was governor of Brixton Prison. During my early years Brixton held a small number of prisoners who required very high security but the majority of the prisoners in my charge did not come into that category. Brixton at that time could better have been described, as could many prisons today, as a place of asylum in the proper sense of that word, a place of safety for the mentally ill, for the drug and alcohol addicted and for the wide spectrum of men who for one reason or another find it difficult to secure the accommodation, employment and support that would enable them to live a full life in society. These men often operate under the radar of the institutions of society that deal with health, with accommodation, with employment and similar matters. They only come above the institutional radar when they commit or are accused of committing an offence, and the part of the radar that picks them up is the criminal justice system. Prisons provide singularly inappropriate environments for dealing with these persons other than in exceptional circumstances.

As this chapter has demonstrated, there have undoubtedly been significant changes in prisons in a number of countries over the last 40 years. At the same time the nature of imprisonment itself has become increasingly restrictive, with large numbers of prisoners being held in conditions of maximum security, often with little or no justification. This situation has grown steadily over the last 30 years as Derek Jeffreys describes in his chapter, and has accelerated since 2001 as countries respond to perceived threats of terrorism. The justification for this has been, as Prime Minister Tony Blair said in 2005 when talking about those who ‘meddle with extremism’, ‘Let no one be in any doubt. The rules of the game have changed’ (Jeffery 2005). The reality is somewhat different. The events in Abu Ghraib prison in Iraq in 2003 and the continuing events in Guantanamo are not evidence that the principles on which good prison management should operate are no longer applicable. Instead, they are evidence that little has been learned from experiences such as those of the UK with republican and loyalist prisoners in Northern Ireland in the 1970s and 1980s, and those of Turkey more recently with PKK (Kurdistan Workers’ Party) and other prisoners.

The increased use of imprisonment is also a reflection of new insecurities in a changing world order. As inequality increases between nations and within nations, governments are making greater use of criminal justice systems to deal with social and economic problems. In the decade from 1997 there were over 50 new major pieces of Home Office legislation with criminal justice implications (Faulkner 2010), and more than 1,000 new offences for which a person could be given a prison sentence were created (Johnston 2009). The increased use of imprisonment has been a direct consequence of this expanded reach of criminal justice. This in turn has placed an intolerable burden on prisons as they struggle to provide minimally decent living conditions for men and women who have myriad personal, social and health problems that cannot be resolved within the high walls and fences of a prison.

Successive governments have concluded that the answer to the failure of prisons to rehabilitate those who are sent there is to send more people to prison and to send them there for longer periods, while at the same time berating those who work in prisons for

not doing more to ensure that those who leave prison do not break the law again after they return to the community. That is rather like blaming the surgeon who mends a skier's broken leg for the fact that the person later returns to the slopes and breaks his or her leg again. In recent years prison systems throughout Europe have become much more efficient in their processes, but being more efficient is of little moment if what is being done is itself the wrong thing. The result is merely that one ends up doing the wrong thing better, but it remains wrong. The prison services of the UK generally do what they do well; they do what they are asked to do. Yet the question remains, are they being asked to do the right thing?

A recent report from the British Academy (2014: 17) recognized the sterility of merely rehearsing arguments about costs and benefits in respect of the use of imprisonment. Instead it pointed to the need:

to develop a different kind of argument, one that appeals not to empirical evidence about the effects of imprisonment but to a set of fundamental social and political values – liberty, autonomy, solidarity, dignity, inclusion and security – that penal policy should support and uphold rather than undermine. Such values should guide our treatment of all citizens, including those convicted of criminal offences: we should behave towards offenders not as outsiders who have no stake in society and its values but as citizens whose treatment must reflect the fundamental values of our society.

The report concluded that it is 'very hard to see how our current use of imprisonment could be said to reflect these social values'.

This is a challenge that merits a response.

Note

- 1 See for example, Lappi-Seppälä 2008.

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Chapter 2

Prison histories, 1770s–1950s

Continuities and contradictions

Helen Johnston

A fearful man, all in coarse grey, with a great iron on his leg. A man with no hat, and with broken shoes, and with an old rag tied round his head. A man who had been soaked in water, and smothered in mud, and lamed by stones, and cut by flints, and stung by nettles, and torn by briars; who limped, and shivered, and glared and growled; whose teeth chattered in his head as he seized me by the chin.

(Dickens 1881: 2)

The above description is one of the most famous 19th-century fictional criminal creations, Magwitch – the escaped convict, loose on the Kent moors, who terrifies the young boy Pip into stealing food and equipment to aid his flight. The image evoked by Dickens has endured in the popular imagination: when people think of prison history, they tend to think of the convict prisoner, the dangerous, long-term criminal, clothed in the broad arrowed uniform, put to long hours of hard labour in the mid-Victorian prison. Along with the convict, they often have a vision of Victorian prison architecture: long brick wings with small windows, stemming from a central hub, rows of cells on three or four levels stretching out as far as the eye can see (Jewkes and Johnston 2007). In the popular imagination, then, prison history often evokes a particular moment in the history of imprisonment – the mid-Victorian prison and the Victorian convict. In this chapter, we will examine the realities of this image. As we shall see, this archetype lasted for two or three generations, but imprisonment has a much longer history before then and an important one since. Whilst the image of the Victorian prison and prisoner may be an enduring one in our popular culture, it was a relatively short period in the much longer story of the emergence and history of imprisonment.

So, why and how would the prison emerge as one of the main forms of punishment by the mid-19th century? Once we had decided on the prison as a form of punishment, what should we ‘do’ with people during their time confined within? These are the questions that permeate the use of imprisonment since at least the 18th century and remain at the heart of penal policy and criminal justice discussion in the 21st century. As the chapter will demonstrate, this narrative is not just one story of progressive change across hundreds of years of humanity; the modern prison, since its conception, has been a site of contest and discussion; an environment of experiment and a source of continued debate between administrators, prison staff, prisoners, academic scholars and the public about its role and legitimacy within society, and its effects, results and consequences.

The mid-Victorian prison: deterrence and bureaucratic administration, 1850–95

By the mid-19th century, the prison existed in the form in which we recognize it today: large, austere prisons holding hundreds of people; timetabled, organized institutions, populated by uniformed inmates, staffed by officers and experts. Though the prison was not a Victorian creation, the mid-Victorians fashioned the institution to such a degree that it has had an enduring effect not only on our collective imagination but also on many current aspects of the penal estate, particularly the buildings themselves which continue to house thousands of prisoners every day (Jewkes and Johnston 2007). However, we must also be aware that whilst we might be familiar with this image of the prison, the realities of mid-Victorian confinement were born of the questions raised by, and responses to, the problems of crime and punishment as they saw them at that time.

By the 1850s there were two systems of imprisonment in operation on the British mainland. Local prisons were operated by local authorities and held prisoners who were sentenced to short periods of incarceration, usually periods of up to two years. The government had experimented with two large prisons, Millbank and Pentonville, which will be discussed in the next section, but with the demise of the transportation of offenders to Australia they were faced with a much greater problem: how were they to deal with offenders who would otherwise have been banished overseas? By the 1850s, transportation was already contentious and on the decline. In the 1830s, at the height of the system, around 5,000 convicts were sent to Australia, but from 1840 the colonists in New South Wales and (from 1853) Van Diemen's Land, refused to accept any more. Subsequently, only Western Australia was willing to take convicts and whilst this continued until the last ship sailed in 1867, prisoners were sent in much smaller numbers – just under 10,000 men in total in the last 14 years. This was but a small fraction of the 160,000 convicts sent to the Antipodes between the discovery and establishment of the colony at Botany Bay in 1787 and the end of the system (Shaw 1998; Godfrey and Cox 2008; Maxwell-Stewart 2010; Johnston 2015).

The government set down plans to accommodate prisoners at home. Instead of sending offenders overseas they would be imprisoned in a government-run system called the convict prison system. In convict prisons, inmates would undergo a sentence of long-term incarceration called 'penal servitude', initially set at four years; one year to be served in separate confinement and three years on the public works, followed by release on licence (Tomlinson 1981). Early release from convict prisons on licence was gained through remission earned inside prison and, broadly speaking, this continued a practice that had operated in Australia to help encourage convicts to establish themselves within the colony (Johnston and Godfrey 2013a; Cox et al. 2014). Transportation as a sentence was abolished by the second Penal Servitude Act 1857, though the ability to send convicts overseas was retained. Once fully established (some convict prisons had to be built or adapted), the system operated across a range of prisons, all in London and the South of England. Millbank and Pentonville were used for the initial part of the sentence when convicts were placed in separate confinement (in Scotland, the government used cells at Perth prison); then convicts were sent to the public works. At Brixton, Chatham, Chattenden, Dartmoor, Parkhurst, Portsmouth, Portland and Borstal prisons, convicts were put to labour, building docks and sea defences, working in quarries and excavations, reclaiming moorland or farming. Female prisoners were sent to Brixton and

Parkhurst in the early years of the system but when it was more established they underwent separation at Millbank and were then sent to Fulham Refuge (although called a refuge it was a convict prison) or Woking prison, where they worked in the laundry or were set to needlework and knitting (Tomlinson 1981; Johnston 2015).

The mid-Victorian prison was developed in a climate of fear and anxiety about crime and the penal system. From the mid-1850s and into the 1860s, these fears contributed to the way in which the mid-Victorians responded to crime and shaped the prison and its regime. From the early 19th century onwards, social and legal reformers, investigators and journalists, as well as magistrates and politicians, had increasingly drawn attention to the problem of crime, collecting evidence, statistics and documenting material, identifying the supposed 'criminal classes' with a view to addressing crime and its causes. Whether or not the 'criminal classes' actually existed is a point of debate, but at the very least the Victorian public believed they existed and the consequences of these views for the criminal justice system, rather than the reality of their existence, are of greater importance for our purposes (McGowen 1990; Emsley 2010; Johnston 2015). In addition, by this time the early Victorian 'reformatory' prison project was regarded as a failure and fears that the 'criminal classes' would swamp British society were considerable. These anxieties were compounded by a moral panic about garroting (violent street crime) in 1856 and again in 1862 (Davis 1980; Sindall 1990) and, as noted above, by the end of transportation (Bartrip 1981; Smith 1982). The vision evoked by the escaped convict, Magwitch, who had broken free from the confines of the hulks (decommissioned warships moored on the coast, where convicts sentenced to transportation were housed until they set sail), gripped the public imagination and, writing in 1861, Dickens drew on the fears and anxieties that were apparent in British society at this time.

The consequences of the failed reformatory prison project, the end of transportation, fears about the criminal classes and the release of convicts at home resulted in a shift towards a more deterrent penal philosophy from the 1850s and 1860s onwards. Ushered in by two government committees – the Carnarvon Committee on prison discipline and the Penal Servitude Commission, both held in 1863 – the subsequent legislation, the Penal Servitude Act 1864 and the Prisons Act 1865, implemented more severity and a deterrence-based penal philosophy in convict and local prisons which would dominate the system until at least the end of the 19th century. The Penal Servitude Act set a minimum five-year sentence and mandatory seven years for those who had previously undergone penal servitude. The stages of the sentence remained the same: separate confinement, followed by labour on public works and then the possibility of release on licence. The daily regime also used a system of marks or progressive stages under which a small amelioration in conditions could be gained through obtaining and maintaining 'marks' (these could be removed as a punishment or the convict could be placed back a stage) (Johnston 2015).

Similarly, in the local prison system, a policy based on 'hard labour, hard board, hard fare' predominated. This regime asserted deterrence through long hours of hard labour, sparse living conditions and a minimal diet – just enough to endure the hours of labour, but monotonous and bland to ensure it did not attract any potential entrants to the prison from the workhouse or the vagrant community. Uniformity in the local prisons had been continually urged by the central prison administrators and by the prison inspectors; the Prisons Act 1865 continued this policy, tying funding grants to local authorities from the Treasury to prisons that met the required standards. The Act also

adopted the term ‘local prisons’ to distinguish these prisons from the government-controlled convict system. The government finally gained control of the local prisons in 1878. The Prison Act 1877 had transferred the control of all local prisons from April 1878 to the newly formed Prison Commission under the leadership of Edmund Du Cane, who became chairman of both prison systems, having been director of the Convict Prisons since 1869. The marks system and progressive stages as used in convict prisons were also implemented into the local prison regimes, although, as McConville (1995) has observed, for many local prisoners the use of progressive stages was pretty futile. The overwhelming majority of those who were sent to prison were sentenced to short periods (most under one month) and therefore would spend all of their time at the most severe stage no matter how well behaved or industrious they were. The main problem with this was not so much the short sentence, which though undoubtedly harsh could be got through, but the cumulative effect of multiple short sentences at this severity. Such experiences were common for a certain proportion of local prisoners who were repeatedly sent to prison for short terms and whose recidivism, by the latter decades of the century, would be viewed as increasingly problematic (McConville 1998b, 1995; Johnston and Godfrey 2013b).

Whilst the image of the mid-Victorian prison has been an enduring one, the convict like Magwitch was not the common prison experience; instead, it was the short-term prisoner, serving a period of seven or 14 days in a local prison, who was common among those sentenced to imprisonment. As we shall see later in this chapter, the severity of the late-Victorian prison was increasingly called into question by the end of the 19th century. The move to the deterrent system described above came from the demise of the reformatory project of the late 18th and early 19th centuries and it is to this period, often referred to as the one in which the birth of the modern prison occurred, that we shall now turn.

Prison reform, 1770s–1850s

It is a modern idea that people can be changed or altered by imprisonment and this section will examine the evolution of this idea in the period of ‘prison reform’, from the 1770s to the early 19th century. Whilst this period is important, we should not overlook the fact that prisons have existed for hundreds and hundreds of years, back to at least the Middle Ages and before. They were used to detain people before trial; they were also used as a punishment, and formed part of a much greater range of different possible penalties that made up the state apparatus of punishment.

It was not until the end of the 18th and into the early 19th centuries that a major transformation took place with regard to the use and purpose of imprisonment. During the 18th century prisons existed in two main forms: gaols, and houses of correction or bridewells. Although legally distinct, in practice the two forms often blurred. In theory, gaols held those people who were to be detained before trial, or sentencing, those awaiting removal to the hulks for transportation overseas (from 1718 onwards to America, then from 1787 to Australia), or those awaiting the death sentence. Gaols also held people who were in debt, until their creditors could be satisfied, though they were not subject to the same rules as criminal prisoners, having greater freedoms. Houses of correction or bridewells (so called as in England in 1555 the then king gave up Bridewell Palace to house the poor and disorderly and put them to work) were probably the first

prisons in the sense that their aim was corrective or to teach habits of industry. They were used from at least the mid-16th century onwards and existed in various forms across Europe (similar examples include the *rasphuis* in Germany, *spinhuis* in Holland) and detained vagrants, the idle and disorderly poor as well as petty offenders (Spierenburg 1991; Innes 1987). As the centuries wore on, in England at least, some of the original aims had fallen by the wayside, and in many boroughs and counties the gaols and houses of correction were largely indistinguishable. All prisons at this time were maintained and operated by local authorities through the Quarter Sessions courts or the borough authorities. The government did not have any involvement in prisons, except for the maintenance of hulks and through contracts with those shipping sentenced convicts abroad.

In the decades leading up to the 1770s, serious offenders tended to be dealt with either by the death sentence (carried out in public) or through transportation. Lesser offences were dealt with through the imposition of fines, or the use of other public punishments, such as whipping or the pillory, or offenders may have been given a short sentence of imprisonment. A crime wave in the 1750s, or at least a perceived crime wave, had drawn increased attention to the use of the death penalty. Commentators felt that those sent to the gallows died a debauched, drunken death, playing to the crowd with long dying speeches, or that the crowd observing sympathized with the offender. If crime rates were increasing and crimes occurred at executions then this seemed to be evidence that the populace was undeterred by the spectacle of public execution or the state's message of punishment. One suggestion put in place by the Murder Act 1752 was that the bodies of murderers be given over for medical dissection after execution. The destruction of the dead body by the anatomists would add more terror to public execution and act as a greater deterrence; the practice stood against the view that bodies should remain whole to ensure that the soul passed into the afterlife. This Act resulted in struggles for the condemned's body after executions: sometimes families and friends mistakenly believed that their loved ones would be anatomized; in other instances, supporters of the offenders would try to retrieve bodies before the surgeon's assistants, to take them and bury them appropriately (see Linebaugh 1975).

There was also growing concern by the later 18th century that the death penalty was not always used appropriately. By this time, whilst thousands of people were sentenced to death for a range of offences, it was not necessarily the case that the execution would actually be carried out. The 'Bloody Code' refers to the large number of statutes that made up the laws of capital punishment, over 200 different Acts of Parliament. On the face of it, this seems a huge number of capital crimes, but the law was not consolidated, as it was by the early 19th century, so every offence would have a separate Act, unlike later when offences were all grouped together in criminal law – for example, as thefts or violence.

Those offenders processed by the criminal justice system for a capital offence did not always end up at the gallows due to the operation of various mechanisms in the legal system (Hay 1975). For example, offenders would plead for Royal Mercy or claim 'benefit of clergy' (reading a passage from the Bible) to receive a lesser sentence, and from 1718 on, the alternative sentence of transportation became more common. It was also possible that during the trial the offence would be manipulated by the judge or jury towards clemency. For example, the judge could use a very strict interpretation of the law to diminish the charge, or the jury might lower the value of the goods stolen, to

avoid having to impose the death penalty. Theft of goods worth more than five shillings was a capital offence, so the jury might find the offender guilty but only of stealing goods worth four shillings and sixpence, therefore avoiding the death sentence. From the Transportation Act 1718 onwards, transportation to America was increasingly used as an alternative to capital punishment, and as a sentence in its own right. Around 30,000 people were banished to America, but transportation was used much more extensively from the 1780s onwards after the discovery of Australia.

The American War of Independence put paid to the transportation of offenders to the former colony in the 1770s, and whilst the government held out for the resumption of the practice, it did not come. At least in part to address this, the government passed the Penitentiary Act 1779 with the intention of building two penitentiaries, one for men and one for women, where offenders would be held before they were sent overseas. The committee that proposed this penitentiary, made up of William Blackstone, William Eden and John Howard, envisaged this penitentiary in a new way: prisoners would not just be held or detained, but would be changed or altered by their imprisonment; they would 'do penance' for their crimes. In the end, the penitentiary was never built, although the proposed scheme is well known as Jeremy Bentham submitted his plan for a panopticon prison to the government tender (Semple 1993). The panopticon, or 'Inspection House', is one of the most famous architectural prison designs. The original design embraced principles of surveillance and observation. The building stood six storeys high in a circular formation with a central guard tower. All cells faced the central tower and therefore the prisoners housed in them were observable at all times. A simple method to induce conformity, the panoptic power of prison was in the maximization of inspection and surveillance; the prisoners never knew when they were being observed.

Whilst government-level involvement with prisons had stalled, at the local level there was far more activity and this was where 'prison reform' was really taking place. Prior to his involvement in the penitentiary committee, John Howard had been an influential campaigner for change in the disorderly and unhealthy prisons he had seen as sheriff of Bedford. Howard undertook a survey of prisons across the country, published as *The State of the Prisons* in 1777. Howard was dismayed to discover the unhealthy and ill prisoners, the mixed population (male and female, tried and untried, serious and petty offenders, young and old), the poor management, lack of sanitation and water, as well as discovering the fees the prisoners paid for food, lodgings, the prison 'tap' (alcohol), and for admittance and other sundries. Those with money or family to assist them may have been able to endure such conditions for a time, but those in poverty had no means of subsistence or support. Howard also found prisoners who had completed their sentences but were unable to pay the discharge fee and obtain their release. His investigation and campaign was to have a considerable influence on county magistrates across the country as well as on the government. He fell short of accusing the magistracy of 'cruelty', aware that the gaols and houses of correction were in their hands, instead noting 'the inattention, of sheriffs, and gentlemen' ... 'the cause of this distress is, that many prisons are scantily supplied, and some almost totally destitute of the necessities of life' (Howard 1929 [1777]: 1).

The Gaol Fees Abolition Act was passed in 1815 and for the most part this abolished the entrepreneurial aspects of imprisonment, setting down the appointment of paid gaolers and replacing fees paid by prisoners with basic maintenance to be provided by the authorities. The passing of the Act was a significant success for Howard, but perhaps even

more successful had been his ability to draw other magistrates and county gentlemen to his cause. Howard (and other reformers, including Elizabeth Fry) moved in distinguished social circles, and social, family and religious connections were prominent with the emerging industrialists, entrepreneurs, bankers, medical men and philanthropists of the early 19th century (Ignatieff 1978). This resulted in the rebuilding of over 45 prisons across the country in the latter decades of the 18th century (Evans 1982) and widespread recognition for Howard; for example, streets where new county or borough prisons were built were named after him, or busts of the reformer, like the one above the prison gatehouse at Shrewsbury prison, opened in 1793, were constructed in his honour (Johnston 2015).

There were certainly a great many improvements in prisons during this period. Greater awareness about hygiene and the necessary prevention of diseases like 'gaol fever' and smallpox had motivated many magistrates to embrace more sanitary prison conditions, but Howard was not just concerned about physical health and he castigated the lack of progress on 'that still more important object, the reformation of morals in our prisons' (Howard 1791: 233, cited in Forsythe 1987: 16). Further recognition of the influence of John Howard and of reformer Elizabeth Fry came in the Gaols Act passed in 1823, which implemented a system of classified association: prisoners would be held in different wards or wings of prisons according to their status (e.g. untried, felon, misdemeanant, debtor) and their sex. Howard had noted the unregulated nature of imprisonment in his campaigns but the plight of female prisoners had been the main cause for Fry (1827) since she had started visiting Newgate prison in 1813.

In 1810 the government revisited the idea of the penitentiary and the Holford Committee recommended the establishment of a government prison, which came to fruition in 1816 when Millbank Penitentiary opened in London. By this time, transportation to Australia had been under way for 30 years, but the idea that convicts may be held in prison before they were sent abroad was revisited in the rationale for Millbank. The first government penitentiary would incorporate some of the new penitential ideals: not only would the prisoner be employed, but s/he would be reformed and improved through the use of seclusion and religious education. The experiment was relatively short lived, however. Millbank was criticized for its huge cost, only inflated by the poor marshland location on which it was built as well as difficulties with staff shortages and corruption. In addition, there were problems with physical illness and disease which caused the prison to be temporarily abandoned, but these were only compounded by allegations that the isolation and solitude inflicted on prisoners were more than their mental health could endure (McConville 1981; Wilson 2002). By the early 1840s, Millbank was a convict depot and the prison administrators' aspirations for a new 'model' prison had turned to Pentonville prison.

By the 1820s and 1830s, the moral reform of prisoners had become the most significant part of discussion and just how the reform of prisoners was to be achieved was dominated by the debate between two prison regimes: the separate system and the silent system. Both systems were first used in America – the silent system in New York at Auburn and Sing Sing prisons, and the separate system in Philadelphia at the Eastern Penitentiary and Walnut Street prison. Both systems were based on the idea of the prevention of communication between prisoners, which, it was thought, would prevent the spread of moral corruption or pollution inside prison walls. The separate system sought to achieve these goals through the use of isolation and religious and moral influence;

prisoners would be placed alone in individual cells, where they would spend all of their time, only being allowed out for exercise or to attend chapel, and only to be visited by the staff or the chaplain. The silent system would achieve the same goals through the implementation of complete silence; prisoners would be held together in large work-rooms during the day and in cells at night, but communication between them would be prevented at all times.

William Crawford, one of the first prison inspectors, appointed in 1835, had been a keen supporter of the separate system and had visited and reported on the system in operation in the USA (Crawford 1834). Along with Reverend Whitworth Russell (also a prison inspector), he lobbied for the use of the separate system in England and ultimately its implementation was regularized by the Prisons Act 1839. The changes in the prison system from the 1830s onwards also reflected greater government involvement in prisons; whilst the state only maintained the hulks and Millbank Penitentiary at this time, they were keen to impose greater control and uniformity on the mass of local prisons that were spread across the country. One way in which this was to be achieved was through the use of the prison inspectors, established by the Prisons Act 1835. The country was divided into districts, each having at least one inspector who would regularly visit all of the prisons in that region. As the century progressed, the inspectors were used to impose greater uniformity on the local prisons; policies and the implementation of prison practices were increasingly tied to funding from central government. In theory, from 1839 onwards, all local prisons would operate the separate system of imprisonment and would adhere to the same practices and policies within prison walls. In practice, local prisons remained diverse for much of this period and into the 1850s and 1860s, and regimes, diets, hard labour and other practices all varied according to the size and population of local prisons, the willingness or interest of the local magistrates to spend money on prisons in their areas, as well as local views about how to treat the prisoners (for examples, see DeLacy 1986; Forsythe 1983; Saunders 1986; Ireland 2007; Johnston 2015).

The failure of Millbank led to a new government focus. At first the gaze fell on Parkhurst prison, which had opened in 1838 to hold juvenile offenders under the separate system. Parkhurst, unlike Millbank, was deemed a success, at least by the administrators, and this encouraged them to seek out a new project for the application of the separate system to adult offenders. This second experiment was Pentonville prison, which opened in 1842, built on the Caledonian Road in London, to hold 520 prisoners. If the use of the separate system was not in question before Pentonville opened, it certainly was after the initial months of the operation of the regime. Newspapers and commentators cautioned against the severity of the prison regime, the long hours of isolation and deprivation and their effects on the mental health of the inmates. Subsequently, prisoners were removed from Pentonville due to insanity and other nervous illnesses caused or exacerbated by the solitary conditions, and the periods of separation were reduced from 18 to 12 and then to nine months (Ignatieff 1978; Johnston 2006). Conversely, Pentonville's regime was also criticized for not being severe enough; critics argued that despite the use of face masks and the specially constructed cells, prisoners did recognize and even communicate with each other. The idea of this method of 'reform' and what this meant in practice was increasingly called into question, as was the religious and moral thread of the separate system that was central to its operation. Not only was the regime either too soft or not strict enough, it was also argued that the chaplains and governors were duped into believing prisoners who claimed that they had been changed by the system.

By the late 1840s and into the 1850s, the cumulative effect of this criticism led to increasing calls for a more deterrent prison regime. The architectural aspects of the separate system remained but the reformatory project had been undermined; instead, the isolation of the separate cell would be fashioned into a new deterrent philosophy of the mid-Victorian prison and would dominate the prison system until at least the end of the 19th century (Henriques 1972; Johnston 2006).

The emergence of the modern prison and into the 20th century: the demise of *Du Cane*, decarceration and two World Wars, 1895–1945

As we have seen, the modern prison emerged in the late 18th and beginning of the 19th centuries. The contrast between the unregulated gaols and bridewells of the 18th century and the timetabled, orderly and functional prisons of the early Victorian period is marked (McGowen 1998). By this time the prison embraced some central features that would determine its use and existence in the following generations and which continue today. As noted above, the reformed prisons were healthier, more orderly and better regulated than the gaols of the past, and traditional interpretations of this change have observed this as a progressive change in which reformers such as Howard and Fry are celebrated for bringing about the end to barbaric and neglectful practices of the past (Webb and Webb 1963; Stockdale 1977; Whiting 1977; Radzinowicz and Hood 1990). Other commentators have questioned the motives of reformers. Unwilling to take the philanthropy and benevolence of reformers at face value, they have examined the unintended consequences of reforms that have resulted in more severe practices or stricter discipline (Ignatieff 1978; Platt 1969; Rothman 1990). Authors such as Foucault (1991), Cohen (1985), Cohen and Scull (1983), Melossi and Pavarini (1981) and Ignatieff (1978) have revised the traditional account of such changes, and all see the prison as emerging alongside other institutions of modern society, such as the school, hospital and asylum, which all share similar disciplinary features and operate as part of a state apparatus of social control. The Marxist accounts of Rusche and Kirchheimer (1939) and Melossi and Pavarini (1981) see the emergence of the prison alongside the development of capitalist society: necessary to instil habits of industry and discipline on the labouring masses.

Foucault (1991) observes the central features of the new prison as: functioning to transform the behaviour of the individual; to classify and categorize prisoners according not only to their offence but also their age, mental health, background; to adapt punishment according to the progress of the prisoner; and to provide both work and education to socialize the individual and for the benefit of wider society. All these processes are overseen by specialist staff and experts and are followed up by measures of supervision after imprisonment to maintain or complete the rehabilitation of the prisoner. Rather than the displays of torture and bodily punishments carried out in public in the past, the new prison inflicts punishment through the internal prison regime with the objective of changing the behaviour of the offender, not just avenging the crime (Foucault 1991). Others have observed these changes in punishment and the rise of the disciplinary prison over a longer period of time, and considered its emergence alongside wider civilizing processes (Spierenburg 1991, 2005; Pratt 2002; Smith 2008).

By the 1890s, the deterrent regimes in prisons established at mid-century were being increasingly called into question. There were a number of concerns, not least the severity of prison regimes. Despite the administrators' best efforts, the full force of the regime

could not be applied uniformly to all prisoners; some groups needed to be protected due to their age or infirmity. Second, even for those prisoners subject to the most deterrent regimes, questions began to be asked about the appropriateness of these methods; critics complained that there was simply no hope of reformation in the crushing prison regime. Third, the administration and operation of the system was too bureaucratic and Edmund Du Cane, who had led both prison systems from 1877 onwards, was viewed as having far too much power and control, while systems of accountability were distinctly lacking (Bailey 1997; Harding 1988; Nellis 1996; Pratt 2004). It was the case that under Du Cane's leadership both convict and local prison populations had fallen; the daily average in the convict system had more than halved from 10,880 to 4,770 between 1879 and 1894, and in the local system it had also fallen, by about one-third from 20,833 to 13,850. However, other factors could have influenced this decline, including a drop in recorded crime, a reduction in the length of penal servitude in 1891 from five to three years, as well as an increased use of non-custodial sentences for some offenders (Bailey 1997). In addition, whilst the average population was declining, recidivism rates were increasing and this was a considerable area of concern (Johnston and Godfrey 2013b).

Criticism of the prison system and the regimes within came from a number of sources. Prisoner memoirs in the preceding decades had called the system into question (Pratt 2002), but in 1894 a series of articles appeared in the *Daily Chronicle* which drew widespread attention. The series, entitled 'Our Dark Places', was thought to have been written by Reverend William D. Morrison, then the chaplain of Wandsworth prison. The 'special commissioner' focused on the autocratic authority of Du Cane, the military character of the system, the discontent of staff, as well as the effects of solitary confinement, overcrowding and recidivism. Calling for the appointment of a Royal Commission, the author concluded that the 'local prison system stands confessed a vast and appalling failure. It cannot be patched from within; it must be remedied from without' (Anonymous 1894).

This media attention was shortly followed by the high-profile criminal trial of Oscar Wilde and his subsequent sentence of two years' imprisonment with hard labour for offences under the Criminal Law Amendment Act 1885 (relating to homosexual practices). Further to the trial, Wilde published a scathing attack on the prison system, written under his cell number pseudonym 'C.3.3', and entitled *The Ballad of Reading Gaol* (1898). By this time, criticism of the system was impossible to ignore and the government had already appointed a departmental committee to examine the prison system, led by Herbert Gladstone.

The Gladstone Committee (1895) acknowledged many of the problems with the severity of the prison regimes but stopped short of a complete shift, instead wishing to promote a balance between deterrence and reform. Hard labour was replaced with 'productive labour', prisoners could work in association (though often this was still in silence), the provision of education was acknowledged as an important aspect of reform and, importantly, remission of sentence was introduced to local prisons from the Prison Act 1898 onwards, as was greater support for prisoners on their release.

David Garland (1985) has argued that this period, between 1895 and 1914, was when the modern 'penal-welfare' complex was established. Changes affected the whole penal system rather than just prisons and were influenced by the ideas emanating from the positivist school of criminological thought which located the sources of criminality within the environment and in family, including physical traits and hereditary, as

opposed to individual morality, which had dominated such discussions in the preceding centuries. Undoubtedly the early 20th century was an important time. With changes in the wider penal system that would have a dramatic effect on the prison system and particularly on the prison population levels, it was a 'truly extraordinary period in our penal history' (Wilson 2014: 89). The development of probation from 1907; the establishment of borstal institutions for young offenders; changes in sentencing practice, particularly allowing increased time to pay court fines and alternative disposals for first offenders; diversion for the mentally ill and those under 16 years old – all contributed to a declining population. In 1908 the daily average population had been 22,000 (over 200,000 receptions to prisons; three out of four of these for non-indictable offences or defaulting on fines); by 1938 it was just over 11,000, which constituted the smallest prison population in Europe (Rutherford 1984; Wilson 2014).

Behind prison walls, though, internal regimes were marked by continuity rather than change. The deterrent and severe practices of the latter 19th century, particularly the use of separation and silence, continued to be the norm for most prisoners who experienced the penal system into the 1920s and 1930s (Forsythe 1990; Bailey 1997; Brown 2013; Johnston 2008). Winston Churchill had become Home Secretary in 1910 and whilst his tenure is often associated with his famous speech on the 'treatment of crime and criminals' as an indicator of the 'civilization' of a country, this image belies some of the more contradictory elements of his penal policy and the bleak and oppressive nature of the prison system (Bennett 2008). For example, despite some reduction in the use of separate confinement for convicts, its use continued for most prisoners until 1931, as did criticism of the rigid and deterrent, 'machine-like' operation of the system. This was most notably demonstrated by the unofficial inquiry into the prison system, *English Prisons Today*, published in 1922 and compiled by two ex-prisoners (conscientious objectors to the First World War), Stephen Hobhouse and A. Fenner Brockway. In the same year, Alexander Paterson became a prison commissioner, and although he was never chairman, his influence was important and his view that people should be sent to prison 'as punishment rather than for punishment' (Ruck 1951: 23) is a well-cited liberal sentiment. This period is often described as 'the golden age of prison reform', but as we have seen with other periods of prison history, it was also a contested and contradictory time, and regimes were slow to change. The period also encompassed the largest prison disturbance in English prison history, at Dartmoor in 1932 (Brown 2013; Wilson 2014; Forsythe 1990).

Inside the prison system during the two World Wars, 1914–18 and 1939–45

One hundred years after the outbreak of the First World War we are commemorating and remembering the great sacrifice and loss of life during this period. Both World Wars would have a significant impact on the prison system and remain largely hidden and undocumented periods within the history of our penal system. Although both wars would have a significant impact on the prison system, they would do so for different reasons. It is perhaps the case that the lasting effect of the devastation and loss of life across Europe in the First World War helped to sustain a more reformatory and rehabilitative philosophy inside prisons in the 1920s and 1930s, but this also occurred within a broader period of decarceration that had begun at the turn of the 20th century (Rutherford 1984; Wilson 2014). The Second World War had a physical impact on the

prison system, with air raids and bombings destroying the buildings, but the crime rate and the prison population began to rise during the early 1940s, which would have a different lasting effect.

The prison population during the First World War dropped quite significantly, though it may already have been on the decline anyway. A smaller prison population (particularly in the convict system) had made the authorities more open to the possibilities of different regimes and the comparative easing of some of the more deterrent aspects inside prisons that had continued from the Du Cane era. At least in the convict prisons, by the 1920s conditions were beginning to ameliorate, though they took longer to come to bear in the local prison system. The number of sentenced prisoners diminished by over 50,000 during 1915–16. Home Secretary Chuter Ede proclaimed that the criminals of England, like the rest of the population, had patriotically signed up, but others claimed that petty crimes had increased (stealing food, rationing coupons, looting), and moreover those imprisoned during this period were more likely to be ‘physically or mentally weaker’ (Jewkes and Johnston 2011; *The Times*, 26 September 1916).

The Second World War would be a different experience for the prison system to operate within. Once again a significant proportion of prison staff were called up to regiments and large numbers of auxiliary staff were called in to operate prisons alongside the remaining staff. However, this period would present new challenges of air raids, bombings, rationing and restrictions not felt in the same way during the First World War. When air raids and bombings began in 1940, the borstal institutions at Borstal, Feltham and Portland were the first to be hit, and by September, air raids had resulted in the bombings of four London prisons in the first few weeks of attacks. A large incendiary device hit Pentonville prison on 10 May 1941, resulting in the deaths of 17 people – staff and their families, and prisoners. The air raids also affected many prisons outside London, notably HMP Walton in Liverpool, Bristol and Hull (though Hull had been closed as a precaution in 1939). HMP Walton was hit by three bombs in September 1940, resulting in loss of life and destruction of parts of the prison. In April and May 1941, incendiary devices again hit Walton, starting fires, and even greater devastation occurred when consecutive nights of Luftwaffe air raids resulted in the deaths of 22 prisoners killed on 3 May when eight direct hits engulfed the prison (Jewkes and Johnston 2011; RCP and DCP 1945).

In addition to the destruction of the buildings during the Second World War, the prison population had also begun to rise, increasing by 50% between 1938 and 1946. After the end of the war this resulted in a new building programme under which 17 new prisons and borstals were established (Soothill 2007). Some parts of pre-war penal policy were continued; the most significant were proposals for ‘open’ prisons, which had stalled in Parliament in 1938. The first open prison, New Hall, Wakefield, had been established in 1936 and a growing acknowledgement in the 1920s and 1930s, that prisoners could be held in different security settings rather than just within the secure perimeters of the local or convict prison, was put into practice (McConville 1998b). Lionel Fox had become chairman of the Prison Commission in 1942 and oversaw the post-war building programme. Askham Grange in Yorkshire became the first open prison for women and received prisoners in 1946, and penal servitude as a sentence was abolished in 1948. The prison system remained under the Prison Commission until 1963 but by this time indictable crime had reached an all-time high (Morris 1989), and some of the advances from before the war were overtaken. The Prisons Act 1952 consolidated a large number

of pieces of prison legislation from the 19th century onwards and remains the central Act for the governance of prisons today.

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Chapter 3

The aims of imprisonment

Ian O'Donnell

Introduction

The stated aims of imprisonment became markedly less ambitious when the confidence that characterized the 19th-century reform movement was displaced by a realization that places of confinement – no matter how well designed or humanely intentioned – could never ‘grind rogues honest and idle men industrious’. Today the emphasis is on risk reduction and performance management; lofty aspirations have been trumped by narrow measures of target delivery. In an attempt to find principled common ground upon which to advance the debate, a new formulation is offered in this chapter, namely: the aim of imprisonment is to reconstitute the prisoner’s spatiotemporal world without causing avoidable collateral damage. It is argued that this minimalist statement provides a foundation upon which to build prison regimes that are oriented towards the future and acknowledge that all prisoners, no matter what they have done, possess the capacity to redirect their lives. Devoid of hope, imprisonment is pointless pain:

II. [T]he supreme aim of prison discipline is the reformation of criminals, not the infliction of vindictive suffering ...

XIV. The prisoner’s self-respect should be cultivated to the utmost ... There is no greater mistake in the whole compass of penal discipline, than its studied imposition of degradation as part of punishment. Such imposition destroys every better impulse and aspiration. It crushes the weak, irritates the strong, and indisposes all to submission and reform. It is trampling where we ought to raise ...

XXII. The state has not discharged its whole duty to the criminal when it has punished him, nor even when it has reformed him. Having raised him up, it has the further duty to aid in holding him up.

(Principles promulgated by the congress of the National Prison Association held in Cincinnati, Ohio, in October 1870, cited in Wines 1871: 541–7)

Antecedents

Two hundred years ago the aims of imprisonment were clear, namely: (i) to contain debtors until what was owed was paid; (ii) to detain accused persons pending trial; (iii) to hold convicted persons pending the execution of the sentence of the court (e.g. corporal

or capital punishment, or transportation); (iv) to punish offenders for periods so brief that ascribing to them a purpose other than incapacitation seems somewhat grandiose – little can really be expected of prison terms that are completed in a matter of days or weeks; (v) to profit gaolers.

The focus of the debate about the aims of imprisonment was sharpened by the stuttering emergence, across Europe and the USA, of a penal philosophy that stressed the importance of reflective solitude as an engine for reform. This coincided with, and was given impetus by, the discovery of architectural solutions to the problem of unauthorized prisoner communication which meant that prisons could be designed to enforce silent separation, something that had not previously been possible. For a time in the early 19th century there was a close alignment between broadly agreed aims (i.e. reformation underpinned by deterrence), the technologies required to deliver them (e.g. timetables, surveillance, diet, cellular accommodation), the associated regimes (whether congregate and silent – the Auburn system, or separate – the Pennsylvania system), and administrative imperatives (e.g. uniformity, hierarchy, security, micro-regulation). This cohesion is evident in the adoption of the Pennsylvania system of prison discipline across much of Europe. Prison chaplains enthusiastically propounded the merits of this approach and their assertive writings, assured tone and assumed universality of appeal have few parallels today. The rival Auburn system, which thrived in the USA, was characterized by a lower level of confidence in the individual prisoner's capacity to reform and the maintenance of silence required the frequent use of the whip (for a review and reappraisal of these competing paradigms, see O'Donnell 2014: Chapters 1, 2; see also Chapter 2 of this volume).

Adding urgency to the debate in the UK was the shift in temporal parameters that accompanied the ending of transportation. If men and women were to be incarcerated for years, some thought had to be given to why, as well as to how and where. The Penal Servitude Acts of 1853 and 1857 played an important, but often overlooked, role in this regard. Prior to their enactment the primary aim of the prison was to hold convicts for a fixed period of time in order to ready them for a new life in the colonies (minor offenders, debtors and those on remand continued to be sent to local gaols for brief periods). When the option of transportation was withdrawn, men and women faced the prospect of spending years behind bars on home soil, something that had not previously been contemplated. This stretching of time horizons forced a reappraisal of penal purposes at a juncture when the optimism that had breathed life into the separate system was waning. Consequently the emphasis shifted away from the prison cell as a crucible for personal transformation and it became, for a time, a place of unyielding discipline, of hard labour, hard fare and a hard bed. While the clarity of purpose may have dulled somewhat, the technologies, regimes and administrative imperatives remained largely unchanged. Rupturing the link between what was desired and how this was to be delivered had lasting ramifications. Subsequent waves of hope and despair occurred within a built environment that was slow to change, and against a background where discipline was pursued as an end in itself, untethered from a reformative ethic.

The confidence of the early reformers evaporated when it became apparent that new prison designs, and the muscular Christianity espoused by their advocates, were insufficient to the task of inspiring wholesale cognitive, spiritual and behavioural change. A truncated version of the 37 principles espoused by the National Prison Association in the USA in 1870 – three of which were quoted at the start of this chapter – was adopted by the International Penitentiary Congress in London two years later (Wines 1873: 177–8).

Despite initial enthusiasm, these eloquently phrased and ebulliently expressed aspirations soon came to be seen as disconnected from the realities of imprisonment, however noble the sentiments they embodied.

Thinking about aims requires consideration of how they have changed over time. The disappearance of benevolent intent meant that imprisonment felt different to those forced to endure its strictures. Despite the harshness of the silent and separate systems, and concern about the adverse mental health implications of regimes that required the termination of meaningful human relationships, their champions wished to force change upon the prisoner so that when he or she re-entered society it was on mutually beneficial terms. Bentham (1843: 226) described the panopticon prison as 'a mill for grinding rogues honest and idle men industrious', a description that might equally be applied to prisons of the late 19th century when the hope that penal treatment could bring the prisoner closer to God, and into harmony with his law-abiding fellows, proved to be misplaced. However grim Bentham's philosophy might appear, it is a world away from grinding without purpose.

Contrast the use of solitary confinement in Eastern State Penitentiary in Philadelphia, or Pentonville prison in London, or any of their numerous imitators in the 1800s, with the 20th-century manifestation of penal solitude in the supermax (see Chapter 10). There are two important distinctions for present purposes. The first is the absence of any pretence that prolonged isolation is for the good of the prisoner. The second is that for a significant cohort of those so detained, there is no prospect of eventual release, no 'fold' to return to. Supermax custody defines prisoners by their criminal conduct, is pessimistic (at worst) or disinterested (at best) about the possibility of personal change, and its advocates have no compunction about administering a kind of treatment that would be adjudged harsh and degrading by anything but the most elastic of standards. Modern technology allows a studied indifference to be paid to prisoners; they command less personal attention than did their 19th-century predecessors and this reinforces their status not only as morally repugnant but also as socially redundant.

I do not wish to suggest that the past was an unproblematically better place, but simply to advert to the fact that there was a singularity of purpose (especially among the proponents of the Pennsylvania system), and an irrepressible confidence that the stated aims could be delivered that, to a great extent, has disappeared from the discourse. When the first wave of penal optimism receded it was replaced by a lurch to harsh – and hopeless – discipline. In Priestley's (1999: 119) words, 'the darkness closed in around the Victorian prisoner'. However, confidence returned eventually, a rehabilitative ethic came to dominate, and there was renewed emphasis on the individual prisoner's capacity to change in a pro-social direction. The disappointing results of empirical studies and the hasty and erroneous conclusion that nothing worked when it came to prisoner rehabilitation caused a fresh reappraisal of the aims of imprisonment. The wheel of penal change completed another revolution. The emergence in recent decades of cognitive behavioural programmes, along with more sophisticated approaches to programme design and better measurement of effects, has renewed confidence in the potential for imprisonment to catalyse meaningful personal change and to improve community safety. As expectations and the associated aims have risen and fallen, the distance between the opposite ends of the spectrum of penal treatment has reduced considerably. When cognitive behaviourism is supplanted by a new approach, it is likely that the impact on prison regimes will be modest.

Official formulations

So what are the expressed aims of imprisonment today? Box 3.1 presents a selection of official declarations of purpose. This is by no means a representative sample, being biased towards (but not limited to) Anglophone jurisdictions. Nonetheless, the selected mission statements give a flavour of contemporary priorities and indicate the range of public messages that prison systems strive to convey. There are noteworthy omissions. Imprisonment in some parts of the world has been designed to serve the interests of the ruling class, unapologetically and unambiguously, through the suppression of political dissent or the control of prisoners' minds. While forced re-education through labour was abolished in 2013, the aims of imprisonment in China are said to still include political indoctrination (laogai.org, accessed 20 May 2014). The prison systems of many African countries are severely overcrowded, poorly resourced, and controlled by their inmate populations (e.g. Jefferson and Martin 2014; see also Chapter 24). In these circumstances to aim for much more than perimeter security, the avoidance of malnutrition, the containment of infectious diseases and the preservation of bodily integrity, may be to aim unfeasibly high.

Accepting the inevitably limited generalizability of the analysis, it is suggested that examining a range of countries avoids the pitfall of adopting an unreflectively ethnocentric approach and proceeding on the basis that an examination of, for instance, the situation in England and Wales, is necessarily of cross-national significance (the Council of Europe and the United Nations have published detailed sets of prison rules that address the purposes of imprisonment but constraints of space preclude analysis of their contents and how they have been revised over time). With these caveats in mind, what can be learned from the official pronouncements of a cross-section of prison services in developed countries?

Box 3.1 A miscellany of aims

Ireland

'Providing safe and secure custody, dignity of care and rehabilitation to prisoners for safer communities' (www.irishprisons.ie/index.php/about-us/mission-statement).

Scotland

'We will be recognised as a leader in offender management services for prisoners, that help reduce re-offending and offer value for money for the taxpayer. We will maintain secure custody and good order; and we will care for offenders with humanity and provide them with appropriate opportunities' (www.sps.gov.uk/AboutUs/aims-of-the-sps.aspx).

England and Wales

'Her Majesty's Prison Service serves the public by keeping in custody those committed by the courts. Our duty is to look after them with humanity and help them lead law-abiding and useful lives in custody and after release' (www.justice.gov.uk/about/hmps).

Finland

'The goals of the Criminal Sanctions Agency are to contribute to the security in society by maintaining a lawful and safe system of enforcement of sanctions and reduce recidivism and endeavour to break social exclusion that also reproduces crime' (www.rikosseuraamus.fi/en/index/criminalsanctionsagency/goalsvaluesandprinciples.html).

Sweden

'Our vision is that spending time in the prison and probation system will bring about change, not simply provide secure custody. We want to encourage our clients to live a better life after serving their sentence' (www.kriminalvarlden.se/sv/Other-languages/).

Canada

'The Correctional Service of Canada, as part of the criminal justice system and respecting the rule of law, contributes to public safety by actively encouraging and assisting offenders to become law-abiding citizens, while exercising reasonable, safe, secure and humane control' (www.csc-scc.gc.ca/hist/mission-eng.shtml).

New Zealand

'The Department of Corrections works to make New Zealand a better, safer place by protecting the public from those who can cause harm and reducing re-offending' (www.corrections.govt.nz/about_us.html).

USA (Federal Bureau of Prisons)

'It is the mission of the Federal Bureau of Prisons to protect society by confining offenders in the controlled environments of prisons and community-based facilities that are safe, humane, cost-efficient, and appropriately secure, and that provide work and other self-improvement opportunities to assist offenders in becoming law-abiding citizens' (www.bop.gov/about/agency/agency_pillars.jsp).

(All website addresses correct as of 20 May 2014)

Most official statements mention post-release behaviour or public protection. It is a high expectation to have of any institution that it would continue to be influential even when no longer part of an individual's life, but an enduring impact is commonly demanded of the prison. Mission statements tend to be silent on the needs of particular prisoner groupings, such as persons on remand, women, juveniles, foreign nationals and those sentenced to die behind bars (whether having received the death penalty, a sentence of life without parole or a determinate sentence that exceeds their life expectancy). These groups may pose particular challenges and require bespoke aims.

Official formulas tend not to mention staff or victims, although both of these constituencies are name-checked in the mission statements of several US states, such as Oklahoma ('Our mission is to protect the public, to protect the employee, to protect the offender'; www.ok.gov/doc/About_Us/Agency_Mission/index.html, accessed 20 May 2014) and Texas ('The mission of the Texas Department of Criminal Justice is to provide public safety, promote positive change in offender behavior, reintegrate offenders into society, and assist victims of crime'; www.tdcj.state.tx.us/index.html, accessed 20 May 2014). Some mention value for money (e.g. Scotland, US Federal Bureau of Prisons). Others stress dignity (e.g. Ireland). Finland refers to tackling social exclusion in order to reduce the likelihood of future crime. Sweden connects prison and probation treatment. Canada draws attention to the rule of law. None mentions the saving of prisoners' souls, which was a pressing concern for those who defined the aims of imprisonment in previous eras. While a religious dimension is largely absent from the official discourse, it continues to resonate among prisoners, who have long found comfort, and a higher purpose, in the tenets of Christianity and, more recently and in increasing numbers, in Islam (Pew Forum on Religion and Public Life 2012). In this way their individual and collective aims are facilitated by prison systems that will not always share them.

Mission statements are accompanied by targets, the achievement of which is considered to indicate progress towards realizing the mission. These targets and the associated tasks are specified with varying degrees of precision. If they are to be of value they must be amenable to reliable measurement, but if they are too narrowly defined they lose contact with the worlds they are supposed to shape and become empty signifiers.

Thinking in terms of aims inclines us towards the adoption of an instrumental approach which emphasizes what works (and at what cost) as opposed to what is right (and for whom). It frames problems so that they are susceptible to technical solutions and thereby closes off potentially fruitful lines of enquiry. It risks prioritizing means over ends. Such a focus has a seductive appeal in that it offers the possibility of demonstrable progress, however faltering it may prove to be. It privileges calculating and comparing. However, it deflects attention from the ethics of imprisonment and the place of prison in society. As Garland (1991: 117) expressed it:

[P]enal measures and institutions have social determinants that have little to do with the need for law and order, social effects that go well beyond the business of crime control, and a symbolic significance that routinely engages a wide population, making it inappropriate to think of them in purely instrumental terms.

An instrumental view of the prison might examine its impact in terms of reducing crime and incapacitating offenders. This in turn lends itself to questions regarding efficiency and economy, the design of attainable targets, and performance monitoring; it is the dominant perspective in corrections today. It could be argued that there has been a further shift away from the objective of crime control – the results of recidivism studies have dented confidence that it is achievable – and towards the management of prison populations, almost regardless of any post-release effects. The emphasis has narrowed from having an impact on the world outside to ensuring the smooth running of the prisoner society. There is an associated shift from outcomes to outputs. For example, rather than aiming to reduce reoffending, the target becomes the completion rate for offending behaviour programmes.

While managerial approaches are fraught with difficulty in complex human environments such as prisons, especially when management imperatives become disconnected from a broader sense of purpose, it would be incorrect to suggest that precise measurements and ulterior motives are incompatible. The 18th- and 19th-century prison reformers were great counters and calibrators. They did not deviate from the timetable. They devised dietary scales that ensured prisoners' appetites were never sated while starvation was kept at bay (just). They tallied the number of times the crank had been turned and the treadwheel spun and adjusted the resistance so that these pointless exercises brought prisoners to the brink of exhaustion but did not render them unfit for the next day's exertions. However, all of this counting and checking and rule enforcement was aligned with clear aims, at least in the early years – namely, the prevention of contagion (whether of physical diseases or criminal beliefs), the assertion of a principle of less eligibility, and the promotion of deterrence and reformation as two sides of the same providential coin. This overarching purpose and the accompanying belief that time apart would prompt self-examination ensured a firmness of resolve even when fears surfaced regarding the deleterious consequences of the new arrangements. When full-throttled confidence was supplanted by uncertainty, then scepticism, and finally pessimism, the counting continued but to no apparent end.

Attempting a new definition

Are there any grounds for consensus when it comes to formulating the aims of imprisonment? One aim around which it is likely that wide agreement could be secured is that prisons should have a null effect. In other words, strenuous efforts should be made to ensure that their occupants are no worse off at the end of their sentences than at the beginning. After all, they have been sent there *as* punishment not *for* punishment. If we define 'worse off' in terms of harm endured as well as risk posed, the corollary is that prisoners must be safe, that their bodily integrity must not be compromised. There will always be some observers who are careless as to the consequences of incarceration for the prisoner society, who would not be concerned if prisoners wreaked havoc on each other, but even those espousing such a view would desire that staff were not caught in the cross-fire and that communities were not endangered when prisoners were released. Imprisonment is associated with a range of unavoidable harms such as the rupturing of community and family ties and the diminution of career prospects. The goal for the prison system must be to anticipate these harms and soften their impact while not adding to them.

Another aim around which it would be possible to generate consensus is that imprisonment should involve the deprivation of liberty. This is vitiated when prisoners escape. Even at open prisons, where perimeter security is largely non-existent, the retention of prisoners is a *sine qua non*. While prisoners can often influence the duration and conditions of their confinement through their behaviour, they cannot administer their sentences according to personal priorities and proclivities.

Imprisonment necessitates the loss of time. Courts award punishments measured in units of time and the point of any prison system is to ensure that they are served. The removal of sovereignty over time is an aim of imprisonment the effects of which cannot be dodged. The prisoner must march to a new disciplinary cadence and while liberty can at least be restored, lost time cannot be. This is something of which prisoners are acutely

aware and against which they marshal whatever resources are at their disposal (O'Donnell 2014: Chapter 10). This allows us to posit the following definition. Stripped to its undeniable essentials, the aim of imprisonment is to reconstitute the prisoner's spatio-temporal world without causing avoidable collateral damage. A statement of intent along these lines would seem appropriate to prison systems everywhere and it is difficult to imagine that it would meet with principled resistance. Although minimalist, it acts as a foundation upon which to layer additional, and always subsidiary, aims. It has the twin virtues of clarity and parsimony.

The Irish political prisoner Michael Davitt (1885: 180) described hope as the 'all-sustaining prison virtue'. Devoid of hope, imprisonment is pointless pain. This is degrading for all concerned. If the carceral experience can be imbued with the possibility of something better this will redound to our collective advantage. By definition, hope is slippery, elusive and difficult to operationalize. It cannot be weighed or measured. Nonetheless, there is a need to orientate prison treatment towards the future so that prisoners' capacity to change their lives for the better is acknowledged. There is something to be said for striving towards a worthwhile goal even if it remains somewhat inchoate. There is something to be said, also, for accepting that prisoners are not entirely defined by their pasts. Like all of us, their life stories can be re-narrated and later chapters can be very different in style and substance from earlier ones. Hope is the state of remaining open to this possibility.

There are clear parallels here with the debate about 'humane containment' versus 'positive custody' that took place in England and Wales in the late 1970s and early 1980s. There was a concern that to allow the former concept to act as an organizing principle for prison regimes was to require staff to work in a moral vacuum and to expect too little of prisoners (see Bottoms 1990). Such an approach, it was believed, would be damaging because it would strip the prison experience of a wider sense of purpose. Undergirding my cautiously expressed aim is the firm belief that improved behaviour is a welcome bonus and should always be hoped for and worked towards.

Accepting the desire for a null effect as a starting place, what does this mean? The first implication is that prisoners must be at least as safe as an equivalent group in the community. The evidence suggests that when it comes to lethal violence they are (Mumola 2005; Sattar 2001); when it comes to sexual victimization they may not be, especially in the USA (O'Donnell 2004); and when it comes to routine victimization not enough is known. It cannot be gainsaid that assault, theft and robbery are common in prisons (Edgar et al. 2012), but whether they are significantly more hazardous environments than the areas of urban deprivation from which many prisoners are drawn, and the domestic environments in which they dwell, we cannot be certain. Without doubt, prisoners should be safe from the predations of staff. Regrettably, they are not (Kaiser and Stan-now 2013). This is an important difference from community life, where it does not appear that offenders face the threat of being sexually violated by authority figures to whom they report.

The second dimension of the null effect relates to post-release behaviour. Does imprisonment place society at elevated risk? There are three possible answers to this question. First, that risk is unchanged but put in abeyance. Such an outcome may disappoint but it is consistent with the achievement of a null effect. Second, that risk is reduced and the community to which the prisoner returns is safer as a result. This may be a consequence of deterrence, rehabilitation, ageing, the removal of suitable targets, or

some other process, and it is an improvement on a null effect. Third, that risk is elevated and the prison has failed to meet its most basic aim.

As Box 3.1 shows, prison systems everywhere strive to exceed the modest baseline of neutral spatio-temporal reorientation. Key personnel desire that prisons are secure, safe and humane places for both inmates and staff. They are alive to the potential for prisons to entrench disadvantage. They seek an extramural impact in terms of community protection and, while reluctant to take responsibility for changing the lives of those in their charge, wish to equip prisoners with the tools necessary for self-improvement should they be motivated to learn how to use them. How aims are implemented is influenced by the values and beliefs held by those who are required to give effect to them (e.g. Rutherford 1994) and, significantly, by the relationships between staff and prisoners (Liebling, with Arnold 2004).

A constriction of ambition

It could be argued that there has been shrinkage over time in the breadth of ambition associated with the expressed aims of imprisonment. There has been a shift from the articulation of nebulous aspirations to the specification of tasks that can be measured and targets that are associated with the successful completion of these tasks. Partly this constriction of ambition was brought about by the disappointing results of penal practice; prisoners all too rarely repaid the brimming confidence of the reformers with good behaviour after release. Partly it reflects the encroachment of new ideas about performance management and a sense that the prison should not be immune from the chastening effects of the 'three Es' of economy, efficiency and effectiveness. Partly it is a logical extension of the squeezing out of the person that accompanies advanced bureaucratization when the rule book comes to dictate the terms of engagement (O'Donnell 2011).

It is entirely reasonable, of course, to adopt aims that can be operationalized, but it is important not to lose sight of the fact that what is measured is never more than a proxy for what is important. Performance measures and targets should flow from aims, and regularly be reconciled with them. If the measurement fails, this does not imply that the aim should be jettisoned. Aims that are narrowly focused, uniformly applicable, unfreighted by ideology or complex sentiment, and amenable to quantification appeal to the managerial mind (it is a bonus if they are disconnected from the world outside the prison walls). They have the undoubted advantage of precision, however poorly they grip the complexities of prison life. However, like the metrics that accompany them, they are guilty of offering false hope regarding the potential of ever more precise measurement to capture – or to catalyse – meaningful change. The instrumental approach can efface its alternatives, with aims collapsing into metrics and measurement becoming an end in itself. In this way a sense of purpose can become detached from the day-to-day organization of prison life. The many things that prisons aim to do, and the resources that are devoted to ensure that they are done – quantifiably – eclipse the overarching sense of purpose that might otherwise attend the enterprise. Seeing the completion rate of an offending behaviour course as indicative of anything else is fraught with difficulty.

Modern mission statements, like those included in Box 3.1, are characterized by the qualified nature of their claims. They aid to encourage and to provide opportunities rather than to reform and to cultivate self-respect. Such caution is understandable given

the limited positive effects of imprisonment and the reluctance to make claims that will not be supported, but it is more difficult to generate enthusiasm around a mission statement that is descriptive and unambitious than one which suggests the possibility of personal transformation or institutional triumph against the odds. The flipside of extravagant aims is the pessimism that follows when they are not realized (or when the realization dawns that they never will be). The aims embedded within, and emanating from, modern mission statements are predominantly intramural ones: to provide safety, security and order; to ensure compliance with disciplinary codes; to monitor participation in appropriate programmes; and to remain within budget.

Aims have been progressively narrowed, management techniques have become increasingly sophisticated, and the attempt to connect these manifold measures to something that unites and elaborates them is missing. It could be said that today's 'aims' reflect imperatives that relate to the smooth running of the institution rather than the transformation of the prisoner (and, as a corollary, the improvement of society), but what happens when aims conflict and there is no larger sense of purpose that might help to resolve such conflicts? The difficulty with a piecemeal approach is that it reflects a particular view of the prisoner, who is seen in a disaggregated way, rather than as a whole person, whose needs and drives, strengths and weaknesses, history, character and potential, require attention. My minimalist definition of aims does not overcome these difficulties but it remains open to the manifold possibilities associated with human development and maturation.

The prison in society

The aims of prisons cannot be divorced from the characteristics of the societies in which they take root. Local legislative and policy contexts, together with societal values and community sentiment, play a critical role.

Mathiesen (1974: 76–78) argued that imprisonment remained dominant in advanced capitalist countries such as those in Box 3.1 because it served several social functions. The first of these was *expurgatory*: the prison acted as a repository for unproductive members of society who threatened social order. The second was a *power-draining* function: the capacity to resist is reduced through incarceration and oppositional voices become muffled behind prison walls. The third was a *diverting* function: the use of imprisonment, largely targeted at petty offenders, distracts attention from the really damaging crimes of the powerful. The fourth was a *symbolic* function: by turning prisoners into scapegoats, other citizens are reassured of their moral rectitude. Some years later he added a fifth, which he described as an *action* function: by building prisons and legislating for longer sentences the state conveys an impression that something is being done, that decisive action is being taken (Mathiesen 1990: 138).

It would be going too far to equate Mathiesen's social functions with the aims of imprisonment. The value of his critique is that it alerts us to some of the ancillary impacts of imprisonment and the need to place the prison in its national environment to understand what it does and what it might be expected to do. More recently, there have been several attempts to relate cross-national imprisonment rates to varieties of welfare state regime. The earliest of these was probably Kilcommins et al. (2004: 278), who found that 'countries with well-developed, universalistic, generous welfare regimes tend to have lower prison populations than those with low levels of welfare provision'. Box 3.1

comprises a mixture of social democratic (Finland and Sweden) and liberal (USA, Canada, New Zealand, Scotland, Ireland, England and Wales) countries, and it is not surprising that the aims of imprisonment differ according to welfare arrangements. As might be expected, the social democratic mission statements are outward looking and inclusive (e.g. Finland), while the liberal countries prioritize values of cost effectiveness (e.g. USA) and public protection (e.g. New Zealand). The fact that a cursory glance at prison service mission statements raises issues around national political and social priorities demonstrates the importance of viewing prisons in context.

Even if the social functions of imprisonment are seldom spelled out by the architects, administrators and subjects of the system, they remain important. Examining the role of prison in society allows for the possibility that the institution may 'succeed' in some respects just as it 'fails' in others. Indeed, a failure for one observer may be a success for another as the same outcome can lend itself to a variety of interpretations. The prison might 'fail' when it comes to reducing recidivism but 'succeed' in expressing popular revulsion at certain forms of misconduct. Some effects may be welcomed even if they are not aimed for.

The delivery of aims requires the allocation of resources. When Ireland's economy was booming, a commitment was made to expand the prison system with little thought given to the necessity or the wider ramifications; this is an instance of Mathiesen's 'action function' at work. A deep recession caused a change of direction (O'Donnell 2011). Prosaically, then, economic imperatives can have implications for the aims of imprisonment and the role of the prison vis-à-vis other sanctions and measures. This phenomenon is not confined to Ireland. Webster and Doob (2014) have argued that reductions in the prison population in Alberta in the mid-1990s were driven by budget cuts, but given added traction by core Canadian values rooted in the belief that imprisonment plays a minor role in crime control and should be used sparingly.

Garland (1991: 115) suggested that the sociology of punishment offered an analytical framework that was superior to 'the punishment-as-crime-control' or 'punishment-as-moral-problem' approaches of penological studies. This shift of focus downplays concerns about the rationales and effects of punishment and promotes thinking about the social functions that punishment discharges and the relationships between prisons and other institutions. This is a necessary element of any analysis of the prison, which can then be considered from a variety of perspectives, each of which speaks to its possible functions. For example, a Durkheimian might look at imprisonment as enhancing social solidarity and reinforcing social boundaries; a Marxist might prioritize issues of class domination and the need to siphon off surplus labour or to exploit captive populations; a Foucauldian might locate the prison within a broader carceral archipelago, as an instance of a more general disciplinary strategy with surveillance as a route to docility; an Eliasian might emphasize the prison's role in pushing punishment behind the scenes as characterizing a civilizing process. As Garland (1991) noted, and as many chapters in this volume attest, the penal system is not only instrumental in purpose, but also has a cultural style and an historical tradition, which shape the ways in which objectives are pursued.

The value of situating the prison, historically, as but one of a range of sites of social control has largely disappeared from contemporary debate. However, when reinserted, the implications for understanding are profound. As O'Sullivan and O'Donnell (2012: 1–41) have shown, the prison's move to centre stage has occurred against a background where aggregate levels of what these authors term 'coercive confinement' have dropped steeply.

The beneficiaries of this waning culture of control have been numerous women and children whose lives are no longer interrupted by involuntary detention in custodial settings such as psychiatric hospitals, reformatory and industrial schools, mother and baby homes, and Magdalen asylums, places that were experienced as punitive, whatever their expressed rationales. Understanding the aims of imprisonment, therefore, requires consideration of the rise and fall of other modes of incarceration and how these trajectories relate to shifts in family structures, economic opportunities, political priorities and moral imperatives (O'Sullivan and O'Donnell 2012: 250–294). Thinking in terms of coercive confinement allows us to see the prison with fresh eyes. It leads us away from approaches that are rooted in singular interpretations and makes it impossible to consider the prison outside the historical and cultural context that it has shaped and been shaped by. It allows us to draw on the richness of a variety of theoretical traditions and to explore points of convergence and divergence.

What I am attempting to do in this chapter is to keep in sight the social dimensions of punishment as manifest in the prison and to shake off the constraints of an approach that is equated with an examination of instrumental utility. To consider the aims of imprisonment requires loosening the prison–crime nexus and exploring where the prison fits more generally, and why. Absent such contextualization, any attempt at explanation falls short. As this chapter is limited to the aims of 'imprisonment' in particular rather than addressing the aims of 'coercive confinement' more generally, I am relieved of this explanatory burden, but it must be acknowledged that without this wider view, the full picture cannot be painted.

Fragmentation

When it comes to formulating the aims of imprisonment it is necessary to consider who has standing in the debate. Who can speak and who is heard? When multiple voices are raised are they cacophonous or in harmony?

It seems reasonable to suggest that the debate about the prison's role attracts a greater variety of contributors than heretofore. No longer is it restricted to a stratum of legislators and policymakers who had much in common including gender, race, age, social class background and level of educational attainment, and for whom arriving at a consensus was often relatively unproblematic, especially in a context where a high level of public trust could be assumed and crime was not a pressing concern. The situation today is far more fragmented, with numerous actors clamouring to express a view. It is possible that this multiplicity of viewpoints has contributed to a narrowing of ambition and a retrenchment of official aims in order to find a position that excites, at worst, manageable opposition.

The views of legislators may collide with those of judges and prison administrators. Policies and laws may conflict. Communities may wish to have a say, either through the politicians they elect or more directly, on particular issues. Victim organizations have grown in significance, sometimes representing a particular class of victims, sometimes standing for victims (or survivors) in general. Specific victims can act as lightning rods for concerted action. They are often young, vulnerable and horribly violated and may lend their names to legislative initiatives. Prisoners may wish to contribute to the debate and they are sometimes given a voice through organizations like KRUM (in Sweden), KROM (in Norway), KRIM (in Denmark), Preservation of the Rights of Prisoners (in

the UK), and the Prisoners' Rights Organisation (in Ireland). Such bodies seldom endure. Even among prisoner organizations there can be dissent and division with little tolerance for certain categories of offender, such as those who commit sex crimes against children (while never mainstream, paedophile support groups had a higher profile in the past; O'Donnell and Milner 2007: 9–15).

Sometimes ex-prisoners can play an important role in creating fresh thinking about the role of imprisonment. Winston Churchill was held captive briefly in a Boer prison and Nelson Mandela spent more than a quarter of a century in custody. While their African experiences were dramatically different, each offered an informed and compassionate voice to the debate about penal reform. Academic commentators, often drawn from the swelling ranks of professional criminologists, sometimes contribute their perspectives in various public forums.

Penal reform bodies also have something to contribute to the debate about aims. The preamble to the 1787 constitution of the Philadelphia Society for Alleviating the Miseries of Public Prisons, which remains in existence as the Pennsylvania Prison Society, set out a number of underlying principles (Anonymous 1987: 1–2), which when read from a distance of almost 230 years, are seen to have lost little of their cogency, even if they have faded from view in many policy contexts. They stress the common humanity of those who find themselves on either side of the law. They express a deep scepticism about the effects of harsh punishment and offer an optimistic view of the human capacity to change direction. They are strongly echoed in the 1870 principles that open this chapter, and are heard more faintly today. These principles are:

- Prisons are 'public' institutions and the public should be concerned about their objectives and their effectiveness.
- Criminals are human beings and not made less so by the commission of crimes.
- It is legitimate to punish those who commit crimes.
- Harsh and degrading treatment tends to increase crime.
- Ways of turning law breakers into law-abiding citizens can be found.
- Society benefits from a system that 'reforms' criminals.

In addition to prisoners, policymakers, victims and reformers of various hues, there is another group that seeks to play a role in determining the aims of imprisonment. This comprises the shareholders in companies that build and manage prisons. In some jurisdictions they are becoming influential.

Where prison privatization exists (largely, it must be said, in the common law world), this brings in its wake an additional – and novel – aim of imprisonment, namely, the creation of shareholder value out of human suffering. Under such funding arrangements, profitability is an essential goal of imprisonment. The wheel has completed another revolution here as the entrepreneurial (and exploitative) gaoler was a much-maligned feature of the pre-reform prison. Today prison managers do not benefit to the immediate financial detriment of prisoners, but the companies that employ them, and their shareholders, have a vested interest in keeping the stock price high. The imperatives of the market also play a role when it comes to selecting appropriate locations for building new prisons, as the construction and operation of these facilities are believed to provide a vital economic stimulus to economically depressed rural communities (a belief that would appear to be exaggerated, according to King et al. 2003).